

**WHO RULES?
THE REGULATION OF GLOBALIZATION**

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“Who Rules? State Power and the Structure of Global Regulation”

ABSTRACT

The current era of globalization has increased the demand for global regulatory coordination. The affected issue areas are diverse – labor standards, environmental protection, banking supervision, consumer health and safety, competition policy, tax rates, intellectual property rights. Under what conditions are these regulations be coordinated at the global level? When there is international coordination, what determines the content of the agreed-upon policies? When will global standard be effectively enforced? This paper argues that great powers remain the primary actors influencing the setting of global regulatory standards. Powerful states will use coercion, inducements, delegation, and forum-shopping across different international institutions to advance their preferences. Coordination will occur if the public goods cooperation generates outweigh the distributional costs of changing domestic regulatory standards. Within this model of great power interactions, developing states, international governmental organizations, and non-governmental organizations are shown to play roles of varying influence and type.

I. Introduction

Globalization is responsible for a lot of bad international relations theory. No doubt, the globalization phenomenon – defined here as the cluster of technological, economic, and political innovations that have drastically reduced the barriers to economic exchange – has had a noticeable effect on world politics. The peeling away of traditional barriers to exchange has led to friction over national regulatory policies that can act as barriers to exchange: labor standards, environmental protection, banking supervision, competition policy, intellectual property rights, etc. However, the scholarly response to globalization has been lacking in detached analysis. Taken to its extreme, this discourse argues that the changes wrought on world politics in the past twenty years are so revolutionary that new theoretical paradigms must be developed and existing theories must be discarded.¹

This paper's title was chosen to echo Stephen D. Krasner's seminal essay² because it contains the same message: current debates about the global political economy ignore the preeminent role of the great powers. Realists stress the importance of great power politics, but to date, they have either ignored or trivialized the globalization phenomenon.³ An approach that

¹ Philip Cerny, "Globalization and Other Stories: the Search for a New Paradigm in International Relations," *International Journal* 51, No. 4 (1996), pp. 617-637; Ian Clark, *Globalization and International Relations Theory* (Oxford: Oxford University Press, 1999); James H. Mittleman, "Globalization: An Ascendant Paradigm?" *International Studies Perspectives* 3 (February 2002): 1-14.

² Stephen D. Krasner, "State Power and the Structure of Foreign Trade," *World Politics* 28 (April 1976): 317-347.

³ Kenneth Waltz, "Globalization and Governance," *PS: Political Science and Politics* 32 (December 1999): 693-700; Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999), pp. 220-223.

concedes the significance of globalization but asks how states try to maximize their relative advantage in such a world could prove fruitful.

Once state agency is acknowledged, a “revisionist” model of global governance emerges – one in which the great powers wield considerable influence over the course of regulatory standards. The political economy of global regulatory coordination contains a striking amount of neorealist behavior. Powerful states will use coercion, inducements, delegation, and forum-shopping across different international institutions to advance their desired preferences into desired outcomes. The key variables affecting the pattern of regulatory coordination are the distribution of interests among the great powers, and the divergence of preferences between the great powers and the developing world. The great power cleavage determines whether there will be regulatory coordination or not; the “North/South” cleavage determines the governance structures through which regulations are coordinated.

While great powers are the primary actors driving the creation of global regulations, they are not the only actors. The model developed here suggests that both international governmental organizations (IGOs) and non-governmental organizations (NGOs) have roles to play in regulating the global economy, but only under certain constellations of state interests. If great powers are at odds, NGOs and IGOs have the opportunity to foster an effective consensus on coordination. If key states are in agreement, certain types of IGOs will be crucial for ensuring global regulatory standards, while the role of NGOs will be superfluous. This variation in their importance may help to explain why debates in the international relations literature about the significance of non-state actors have made such little headway.

The rest of this paper is divided into five sections. The next section briefly reviews existing arguments regarding globalization's effects on national regulatory frameworks. The subsequent section articulates the assumptions behind the revisionist approach. The next section uses a simple game-theoretic model to demonstrate the important components of state preferences for international regulatory coordination. The next section develops a typology of regulatory coordination that demonstrates a wide variety of possible outcomes. The final section summarizes and concludes.

II. Globalization and global governance

How does globalization affect the coordination of regulatory standards? So far, structural approaches have provided the loudest responses to this question. These approaches argue that states are at the mercy of systemic forces, be they material or ideational. With these approaches, policy coordination occurs because of structural effects that force convergence; all countries respond to transnational constraints in the same way.⁴

Structural approaches vary in their emphasis on material and ideational factors linked to globalization. The structural theories focusing on the material effects of trade and capital flows tend to posit a race to the bottom.⁵ According to this model, the reduction of restrictions on

⁴ I define policy coordination as the mutual adjustment of national rules and regulations in recognition of other countries' regulatory frameworks. Policy coordination does not automatically imply policy convergence, which is defined as the narrowing of national policy differentiation over time, or harmonization, which implies policy convergence to an identical position. However, theories predicting policy convergence can ostensibly explain policy coordination as well. See Colin Bennett, "What is Policy Convergence and What Causes It?" *British Journal of Political Science* 21 (April 1991): 287-306.

⁵ See Richard McKenzie and Dwight Lee, *Quicksilver Capital* (New York: Free Press, 1991); Susan Strange, *The Retreat of the State: The Diffusion of Power in the World Economy* (Cambridge: Cambridge University Press, 1996); Arthur Schlesinger, Jr., "Has Democracy a Future?" *Foreign Affairs* (September/October 1997):

cross-border exchange frees multinational corporations to scour the globe for the location where they can earn the highest return. National policies such as strict business regulations lower profits by raising the costs of production. Firms will therefore engage in regulatory arbitrage, moving to countries with lax standards. Fearing a loss of their tax base, nation-states have little choice but to lower their regulatory standards to entice foreign investment and avoid capital flight. The end result is a world where regulatory standards are at the lowest common denominator. Implicitly or explicitly, this theory is at the root of most of the anti-globalization sentiment voiced in Seattle and elsewhere.⁶

The world society approach takes the opposite position.⁷ According to this paradigm, regulatory coordination is driven not by capital mobility, but by the development and spread of abstract concepts and the need for nation-states to conform to an ideal of the rationalized bureaucratic state. The growth of global associations and international organizations encourages the spread of new norms calling for an expansive structuration of the state. Thus, the ideational forces of globalization lead states to harmonize their regulations at ever-increasing levels of intervention. Although the world society and race to the bottom theories diverge in their predictions, they share a common presumption; globalization compels governments to harmonize their regulatory policies, overwhelming the state's ability to choose regulatory standards that are at variance with structural forces.

7-8; Richard Falk, "State of Seige: Will Globalization Win Out?" *International Affairs* 73 (January 1997): 123-136; Alan Tonelson, *The Race to the Bottom* (Boulder: Westview Press, 2000).

⁶ Lori Wallach and Michelle Sforza, *Whose World Trade Organization? Corporate Globalization and the Erosion of Democracy* (Washington: Public Citizen, 1999); David C. Korten, *When Corporations Rule the World*, second edition (West Hartford, CT: Kumarian Press, 2001).

⁷ John W. Meyer, John Boli, George Thomas, and Francisco Ramirez, "World Society and the Nation-State," *American Journal of Sociology* 103 (July 1997): 144-181; Martha Finnemore, *National Interests and International Society* (Ithaca: Cornell University Press, 1996).

While these structural approaches offer compelling theories and intuitive clarity, they fail to offer any empirical support. For example, there is no systemic evidence supporting a negative correlation between globalization and labor standards.⁸ The relationship between economic openness and environmental standards also fails to support the race to the bottom.⁹ There is also no evidence that corporations direct their investment to countries that have lower labor or environmental standards.¹⁰ The race to the bottom theory is a dog that does not bark.

There is only marginally more support for the world society approach. To be sure, there has been a secular increase in government regulation of social issues over the past century. However, contrary to this paradigm's predictions, this increase in regulation has been uneven, with a more pronounced effect in advanced industrial states than those on the periphery.¹¹ This is surprising, because this approach predicts that governments lacking in indigenous expertise should mimic leading countries. The econometric work that supports the world society

⁸ Organization for Economic Cooperation and Development, *Trade, Employment, and Labour Standards: A Study of Core Workers' Rights and International Trade* (Paris, OECD, 1996); Cees Van Beers, "Labour Standards and Trade Flows of OECD Countries," *The World Economy* 21 (January 1998): 57-73; Paul Hirst and Graeme Thompson, *Globalization in Question*, second edition (Cambridge: Polity Press, 1999); Edward M. Graham, *Fighting the Wrong Enemy: Antiglobal Activists and Multinational Enterprises* (Washington: Institute for International Economics, 2000).

⁹ Nancy Birdsall and David Wheeler, "Trade Policy and Industrial Pollution in Latin America: Where are the Pollution Havens?" *Journal of Environment and Development* 2, No. 1 (1993), pp. 137-149; Robert C. Repetto, *Jobs, Competitiveness and Environmental Regulation: What are the Real Issues?* Washington, DC: World Resources Institute, 1995; Arik Levinson, "Environmental Regulations and Industry Location: International and Domestic Evidence," in Jagdish Bhagwati and Robert Hudec, eds., *Fair Trade and Harmonization: Prerequisites for Free Trade?* (Cambridge: MIT Press, 1996).

¹⁰ Dorsati Madami, *A Review of the Role and Impact of Export Processing Zones*, Policy Research Working Paper No. 2238 (Washington, DC: World Bank, 1999); Gunnar Eskelund and Ann Harrison, *Moving to Greener Pastures? Multinationals and the Pollution Haven Hypothesis*, Policy Research Working Paper No. 1744 (Washington, DC: World Bank, 1998); Beata K. Smarzynska and Shang-Jin Wei, "Pollution Havens and Foreign Direct Investment: Dirty Secret or Popular Myth?" Working paper, World Bank, Washington, DC, July 2001; , Organization for Economic Cooperation and Development, *International Trade and Core Labour Standards* (Paris: OECD, 2000).

¹¹ David Strang and Patricia Yei Min Chang, "The International Labor Organization and the Welfare State," *International Organization* 47 (Spring 1993), p. 237.

argument¹² also suffers from serious methodological problems, including omitted variable bias and lowered standards for statistical significance.

Agent-based approaches to explaining global governance tend to focus more on the influence of non-state actors. The work on epistemic communities and public policy networks argues that when a transnational body of experts reach a consensus on a particular policy issue, state elites will follow their lead.¹³ Other work places a greater emphasis on the role of non-governmental organizations. This vein of the literature posits that the growth of non-governmental organizations and transnational social movements amounts to the creation of a global civic society that is too powerful for states to ignore.¹⁴ Another variant of this argument focuses on when multinational corporations create their own governance structures to compensate for the retreating state, leading to new “private authority” structures.¹⁵

This work has made a signal contribution in pointing out actors that state-based models have overlooked, but also suffers from some significant flaws. The first problem is that these arguments tend to debate *whether* these groups matter, not *when*. There is no theory

¹² John W. Meyer, *et al*, “The Structuring of a World Environmental Regime, 1870-1990,” *International Organization* 51 (Winter 1997), pp. 623-651; David John Frank, “Science, Nature, and the Globalization of the Environment, 1870-1990,” *Social Forces* 76 (December 1997), pp. 409-437.

¹³ Peter Haas, “Introduction: Epistemic Communities and International Policy Coordination,” *International Organization* 46 (Spring 1992): 1-35; Wolfgang Reinicke, *Global Public Policy: Governing Without Government?* (Washington: Brookings Institution Press, 1998); John Braithwaite and Peter Drahos, *Global Business Regulation* (Cambridge: Cambridge University Press, 2000).

¹⁴ Ronnie Lipschutz, “Reconstructing World Politics: The Emergence of a Global Civil Society,” *Millennium* 21 (1992): 389-420; Paul Wapner, “Politics Beyond the State: Environmental Activism and World Civic Politics,” *World Politics* 47 (April 1995): 311-340; Robert O’Brien, Anne Marie Goetz, Jan Aart Scholte, and Marc Williams, *Contesting Global Governance* (Cambridge: Cambridge University Press, 2000).

¹⁵ A. Claire Cutler, Virginia Haufler, and Tony Porter, eds., *Private Authority and International Affairs* (Albany: SUNY Press, 1999); Virginia Haufler, *A Public Role for the Private Sector* (Washington, DC: Carnegie Endowment for International Peace, 2001).

delineating the conditions under which non-state actors affect global governance.¹⁶ The second problem is that this literature often assumes that when these actors create private governance structures, they act against the will of governments. However, there are several scenarios when states would prefer other actors to take the lead in managing global regulations. For example, scholars have pointed out the efficiency of having private actors provide information on state compliance with certain treaty regimes.¹⁷

To date, the literature on how globalization alters the governance of international economic relations has generated disparate “islands of theory.”¹⁸ These islands focus on small parts of the larger question of how globalization affects governance: structural forces, NGOs, private orders, etc. These islands have one thing in common; the presumption that globalization attenuates state power.

III. Starting assumptions

The model starts with states as the primary actors in setting global regulatory standards. Structural neorealists tend to assume that the state is a rational unitary actor that acts in the

¹⁶ An exception to this is Kal Raustiala’s work, particularly “Domestic Institutions and International Regulatory Cooperation: Comparative Responses to the Convention on Biological Diversity,” *World Politics* 49 (Summer 1997): 482-509; and “States, NGOs, and International Environmental Institutions,” *International Studies Quarterly* 41 (December 1997): 719-740.

¹⁷ Ronald Mitchell, “Sources of Transparency: Information Systems in International Regimes,” *International Studies Quarterly* 42 (March 1998): 109-131; Xinyuan Dai, “Compliance without Carrots or Sticks: How International Institutions Influence National Policies.” Ph.D. Dissertation, University of Chicago, Chicago, IL, May 2000.

¹⁸ Benjamin Most and Harvey Starr, “International Relations Theory, Foreign Policy Substitutability, and ‘Nice’ Laws.” *World Politics* 36 (April 1984): 383-406.

national interest, responding only to changes in the global distribution of power.¹⁹ This step obviates the need for realists to perform any domestic political analysis. The assumption made here about the state as an actor is less absolute, and gets to the distinction between states and governments. National governments remain the primary actors, but I leave open the possibility that these states respond to domestic as well as international variables.

Like neorealists, I assume that the key attribute that differentiates states in international bargaining situations is relative power. For regulatory issue areas, power is defined as the size of a state's internal market. States with significant internal markets and are more capable of compelling multinational firms into complying with national rules and regulations.²⁰ In terms of regulatory standards, these states are price-makers, not price-takers.

Great powers are also less dependent on international exchange as a source of goods and capital. Robert Keohane and Joseph Nye's concepts of sensitivity and vulnerability are useful to develop this distinction.²¹ Sensitivity refers to the immediate costs that occur with the disruption of established patterns of economic exchange. Vulnerability refers to the costs that remain *after* a state has tried to adjust to the disruption of trade. In an open global economy, both great powers and less powerful states build up significant levels of sensitivity. However, because of their internal markets and diversified set of endowments, great powers possess

¹⁹ Kenneth Waltz, *Theory of International Politics* (New York: McGraw-Hill, 1979); Joseph Grieco, *Cooperation Under Anarchy* (Ithaca, NY: Cornell University Press, 1990); John J. Mearsheimer, *The Tragedy of Great Power Politics* (New York: Norton, 2001).

²⁰ David Vogel, *Trading Up: Consumer and Environmental Regulation in a Global Economy* (Cambridge: Harvard University Press, 1995); George Shambaugh, *States, Firms, and Power* (Albany: SUNY Press, 1999).

²¹ Robert Keohane and Joseph Nye, *Power and Interdependence* (Boston: Scott Foresman, 1978), chapter one.

significantly lower levels of vulnerability than other states in a globalized world. They have “go-it-alone” power.²²

Empirically, who are the economic great powers? Going by market size, there are three: the United States, Japan, and the European Union.²³ The U.S. and Japan, as the world’s two largest economies for the last twenty years, are obvious candidates.²⁴ The European Union presents a trickier problem for international relations theory. On some dimensions, such as trade or the environment, the EU can be modeled as a viable single actor;²⁵ for other dimensions, this is clearly not the case. It is clear that when its core members – Great Britain, France, and Germany – have divergent preferences, the European Union ceases to be a coherent actor, and those three states retain independent great power status. When their preferences are convergent, they are willing to delegate negotiating power to the EU’s supranational institutions.²⁶ In the end, this is largely an empirical matter.

How do we derive state preferences? Here the revisionist model diverges from structural realism and other approaches that assume that only systemic-level variables affect actor preferences. The model developed here assumes that state preferences on regulatory issues have their origins in the domestic political economy. The logic behind this assumption is simple but important: most regulatory issues start as domestic problems before globalization

²² Lloyd Gruber, *Ruling the World: Power Politics and the Rise of Supranational Institutions* (Princeton: Princeton University Press, 2000).

²³ As China or India develop their markets, these countries may enter this category. However, for the current moment, these markets remain emerging and not realized.

²⁴ It should be acknowledged that Japan plays no significant role in the empirical examples given in the subsequent section. However, for other regulatory issue areas, such as whaling or global warming, Japan’s great power status is obvious.

²⁵ Sophie Meunier, “European Institutions and EU-U.S. Trade Negotiations.” *International Organization* 54 (Winter 2000): 103-136; Charlotte Bretherton and John Vogler, *The European Union as a Global Actor* (New York: Routledge, 1999).

makes them international issues. Thus, for each issue area, a government's ideal point is its own national regulatory framework. The status quo represents the domestic political equilibrium on the relevant issue.

This assumption echoes Jeff Legro and Andrew Moravcsik's "two-step" approach to international relations theory.²⁷ In their rubric, the first step is identifying the domestic actors and institutions that explain the origin of state preferences. The second step is to take those preferences as an ontological given for international interactions, and to explain the bargaining outcomes as a function of the distribution of interests and capabilities. Domestic factors account for preference formation, but not the outcomes of international bargaining.

IV. When is coordination an option?

Regulatory coordination increases the size of the public good but can also redistribute benefits towards states with domestic standards close to the agreed-upon international standard.²⁸ Table 1 shows the general coordination problem states face. States can choose to stick to their own regulatory framework or agree to switch to the other country's framework. For now, I assume coordination is a two-player game with no coercive option. The payoffs for the status quo – each state retaining their own regulatory standards – are normalized to zero. π

²⁶ Andrew Moravcsik, *The Choice For Europe* (Ithaca: Cornell University Press, 1998).

²⁷ Jeffrey Legro, "Culture and Preferences in the International Cooperation Two-Step," *American Political Science Review* 90 (March 1996): 118-137; Andrew Moravcsik, "Taking Preferences Seriously: A Liberal Theory of International Politics," *International Organization* 51 (Autumn 1997): 513-553; Jeffrey Legro and Andrew Moravcsik, "Is Anyone Still a Realist?" *International Security* 24 (Spring 1999): 55-106.

²⁸ Stephen D. Krasner, "Global Communications and National Power: Life on the Pareto Frontier," *World*

equals the benefits derived from coordination; d equals the adjustment costs of shifting to a new standard. For all states, the most preferred option is coordination at their set of national standard; their worst option is agreeing to another country's standards and no successful coordination.

A quick glance at the game reveals two important facts. First, the key question is whether the payoff for coordinating at another country's standards is greater than the payoff from the status quo. If $d > \pi$, then the equilibrium outcome will always be no coordination, because retaining one's national standards is a dominant strategy for both players. If $d < \pi$, then a bargaining core exists and coordination is a possible outcome. Second, incorporating mixed strategies into the game, it is straightforward to show that as the public good from coordination increases and the costs from adjusting to new standards decreases, a coordinated outcome becomes more likely. In other words, coordination is an increasing function of π and a decreasing function of d .

What determines the value of π , i.e., what are the benefits of regulatory coordination relative to the status quo? The creation of global standards generates two kinds of positive benefits. For businesses, multilateral cooperation reduces the transaction costs of economic exchange. Coordination helps to generate clear decision-making rules for any future changes in the rules. This makes it easier for businesses to form rational expectations about the future regulatory environment. As one corporate official phrased it in discussing the Kyoto Protocol, "what businesses want is policy certainty."²⁹ A single global standard also permits firms to

Politics 43 (April 1991): 336-366. See also Lloyd Gruber, *Ruling the World: Power Politics and the Rise of Supranational Corporations* (Princeton: Princeton University Press, 2000).

²⁹ Andrew C. Revkin and Neela Benerjee, "Energy Executives Urge Some Gas-Emission Limits on Bush,"

exploit economies of scale, by avoiding the maintenance of multiple production processes to comply with different regulatory schema.³⁰ This reduction of uncertainty can increase economic efficiency, moving the global economy closer to the Pareto frontier. Coordination thus bestows greater benefits to countries with asset-specific investments pertaining to the relevant issue area.

A country's development status affects this benefit in two ways. First, most multinational corporations are headquartered in the developed world. The reduction of transaction costs will particularly benefit these firms, so it will also disproportionately benefit their home countries. As of 1999, 97 of the 100 largest multinational corporations are located in the advanced industrialized states.³¹ *Ceteris paribus*, developed economies will also care more about regulatory issues affecting the hi-tech and service sectors. As states develop, their economic center of gravity shifts from the manufacturing to the service sector.³² Logically, reducing transaction costs in services benefits advanced economies more than developing economies.

The second public good that comes from regulatory coordination is the reduction of social externalities generated by economic exchange. Here again, a country's development status is important because it determines societal preferences towards the tradeoff between economic efficiency and social regulation. There is a broad and deep literature on the empirical correlation dubbed "Wagner's Law": as national income increases, governments become more

New York Times, August 1, 2001, p. C1.

³⁰ David Lazer, "Regulatory Interdependence and International Governance." *Journal of European Public Policy* 8 (May/June 2001), p. 477.

³¹ United Nations Conference on Trade and Development, "The World's 100 largest TNCs ranked by foreign assets 1999," press release, September 18, 2001. Available at <http://www.unctad.org/en/press/pr0129en.htm>, accessed March 20, 2002.

³² In 2000, the service sector was on average responsible for 69.7% of GDP and 69.8% of employment in the G-7 economies. For the other members of the G-20, the average figures are 55.3% and 48.5% respectively.

amenable to increased intervention in the economy to correct various economic externalities and inequalities. Empirical correlations exist between rising per capita income and government expenditures.³³

One explanation of this phenomenon is to think of government expenditures as a luxury good – as a citizenry acquires more wealth, it can spend a larger fraction of its income on luxuries. Since social regulation as a luxury good, then Wagner’s Law suggests that as income per capita increases, societal preferences for government regulation will increase as well. This correlation would certainly be consistent with the phenomenon of the environmental Kuznets curve, for example.³⁴ As a society acquires more income per capita, we should expect citizens to be more comfortable with regulation of the economy. National governments will enact more stringent social regulatory standards to reflect citizen preferences.

How large is d , i.e., how much does the proposed regulatory standard diverge from the national status quo? The adjustment costs of regulatory coordination are a function of two factors: the divergence between the proposed global regulatory system and a country’s domestic laws, and the extent to which the national rules are entrenched. The smaller the gap between a country’s national standard and any proposed international standard, the lower the costs of adjustment to adapt to the new regulatory framework. The newer the domestic regulations, the easier it should be to change them to conform to international rules.

Data from <http://www.cia.gov/cia/publications/factbook/>, accessed June 5, 2002.

³³ Adolph Wagner, “Three Extracts on Public Finance,” in R.A. Musgrave and A.T. Peacock, eds., *Classics in the Theory of Public Finance* (London: MacMillan, 1958); R.M. Bird, “‘Wagner’s Law’ of Expanding State Activity,” *Public Finance* 26 (1971): 1-26; Paul Pierson, “The New Politics of the Welfare State,” *World Politics* 48 (January 1996): 143-179.

³⁴ Gene Grossman and Alan Krueger, “Economic Growth and the Environment,” NBER Working Paper #4634, February 1994; Thomas Selden and Daqing Song, “Environmental Quality and Development: Is there a Kuznets Curve for Air Pollution Emissions?” *Journal of Environmental Economics and Management* 27

A country's embedded economic institutions determine the variation between a country's domestic rules and the global standard. Scholars studying technological innovation,³⁵ macroeconomic policy,³⁶ welfare systems,³⁷ and corporate governance structures³⁸ agree that over time, countries develop distinct, interlocking institutions that reinforce particular economic ideologies.³⁹ While each country has its distinct set of institutions, Robert Gilpin organizes these institutional frameworks into three broad archetypes: the Anglo-Saxon, corporatist, and capitalist development cultures.⁴⁰ These archetypes have different attitudes about the government's role in regulating the economy, and are therefore likely to generate disparate regulatory preferences.

In the Anglo-Saxon economies – the United States, United Kingdom, Canada, Australia, and New Zealand – there is a strong tradition of minimal government interference in the economy. Gilpin characterizes the American system of political economy as “founded on the premise that the primary purpose of economic activity is to benefit consumers while maximizing wealth creation.”⁴¹ Because of this tradition, government intervention takes place in

(September 1994): 147-162.

³⁵ Robert Gilpin, “Economic Evolution of National Systems,” *International Studies Quarterly* 40 (September 1996): 411-431.

³⁶ Geoffrey Garrett, *Partisan Politics in the Global Economy* (Cambridge: Cambridge University Press, 1998).

³⁷ Gøsta Esping-Anderson, *The Three Worlds of Welfare Capitalism* (Princeton: Princeton University Press, 1990).

³⁸ Alfred D. Chandler, *Strategy and Structure: Chapters in the History of the Industrial Enterprise* (Cambridge: MIT Press, 1970); Paul Doremus et al, *The Myth of the Global Corporation* (Princeton: Princeton University Press, 1998).

³⁹ See Suzanne Berger and Ronald Dore, eds., *National Diversity and Global Capitalism* (Ithaca: Cornell University Press, 1996); Peter Hall and David Soskice, eds., *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage* (New York: Oxford University Press, 2001).

⁴⁰ Robert Gilpin, *Global Political Economy* (Princeton: Princeton University Press, 2001). Obviously, this is a gross generalization. There is likely to be significant variation in preferences within each economic culture. However, this typology does have the twin advantages of parsimony and verisimilitude.

⁴¹ *Ibid*, p. 150.

a world of adversarial legalism, where the state is perceived to be a hostile force from the perspective of business. When regulation does take place, it emerges from the bottom-up, in the form of industry self-regulation or from subnational polities. Frequently such regulation uses market forces as a means to correct market externalities.

For the continental European economies, and much of Latin America, there is a stronger tradition of a government role in the economy. In the corporatist model, the government cooperates with both big business and labor federations to negotiate tradeoffs between economic efficiency and social welfare concerns. Markets are acknowledged as the primary means of resource allocation, but the expectation of government intervention in the economy is greater than in the Anglo-Saxon system. Regulation is a more common occurrence, and it is more likely to have a centralized, top-down flavor to it. The European Union, and its prominent role in fashioning environmental and social regulation, can be thought of as a natural extension of this Continental tradition.⁴²

In comparison to the European model of corporatism, the model of developmental capitalism, embraced by Japan and the developing countries of Asia, enhances the role of the state and minimizes the power of labor.⁴³ Because these countries were more economically backward when they entered the global economy, they relied more on governments to provide administrative guidance in charting the path of development.⁴⁴ At the same time, the overriding priority in the Japanese political economy is protecting and promoting the transnational

⁴² Bretherton and Vogler, *The European Union as a Global Actor*.

⁴³ Gilpin, *Global Political Economy*, p. 158; Chalmers Johnson, *Japan: Who Governs?* (New York: W.W. Norton, 1995), chapter three.

⁴⁴ Alexander Gerschenkron, *Economic Backwardness in Historical Perspective* (Cambridge: Belknap, 1962); Chalmers Johnson, *MITI and the Japanese Miracle* (Stanford: Stanford University Press, 1982).

companies that form the backbone of the economy. The result is a national system of political economy where the government is happy to assist business growth and is reluctant to take an adversarial stance against business in establishing social regulations.

Given the role of institutional path dependence in reinforcing national economic institutions,⁴⁵ the longer the particular regulatory issue has been in existence, the more likely a country's national regulatory standards conform to its economic ideology and institutions. Historical institutionalists argue that once certain ideas are embedded into societal institutions, path-dependent factors make it exceedingly difficult to contradict those founding ideas.⁴⁶ Labor issues, for example, were among the first to inspire government; changing these standards contrary to historical trends would be politically costly. Newer issues, such as the regulation of e-commerce, would not be expected to have as entrenched a regulatory structure; altering that regulatory framework should therefore cost less.

Factoring both the costs and benefits of any potential coordination into state preferences, one can see that different issue areas will produce different values of π and d , and therefore whether bargaining cores will exist between different clusters of states. Social issues of longstanding concern should generate low values of π and high values of d for all states, resulting in no bargaining core and an equilibrium outcome of no coordination. In contrast, technical issues that arise from recent technological innovations should generate high values of π and low values of d for all actors, leading to a large bargaining core among all states.

⁴⁵ Douglass North, *Institutions, Institutional Change, and Economic Performance* (Cambridge: Cambridge University Press, 1990).

⁴⁶ Sven Steinmo, Kathleen Thelen, and Frank Longstreth, ed., *Structuring Politics : Historical Institutionalism in Comparative Analysis* (Cambridge: Cambridge University Press, 1992).

For other issues, bargaining cores will exist within some clusters of states but not others. When issues generated from advanced sectors are linked to old regulatory questions, the great powers will have much higher adjustment costs, reducing the likelihood of a bargaining core among the great powers. Finally, issues that create disproportionate public goods for the developed world and threaten the competitiveness of developing countries are generate high values of π for the developed world and high values of d for the developing world. These issues will show significant North-South conflict and minimal great power conflict.

V. The process of regulatory coordination

The previous section discussed how the distribution of preferences affects the likelihood of coordination; this section factors in the distribution of power. What distinguishes great powers is their ability to use their market power to coerce other states. If great powers threaten to sanction trade with other countries unless they switch their standards, two factors increase the likelihood of coordination at the great power's standards. First, the threat of sanctioning sends a clear signal to other actors about the great power's intended strategy. In a coordination game, such a signal can help generate a focal point at the great power's preferred set of standards. Second, economic sanctions lower the payoff to the status quo outcome for both states. Lowering this payoff increases the size of the bargaining core, and thus the likelihood of successful coordination.

This section also factors in the role of various non-state actors. NGOs can pursue a welter of strategies, including lobbying state governments, monitoring compliance with global

standards, or developing their own set of standards. For IGOs, borrowing from Michael Walzer,⁴⁷ I categorize IGOs by membership: clubs, neighborhoods, and universes. Universal IGOs, such as the United Nations, purposefully try to maximize membership. As a result, these organizations have enhanced legitimacy. However, the large number of actors, the diversity of their preferences, and the development of independent-minded staffs make decision-making difficult.⁴⁸ Club IGOs, such as the G-7 or the OECD, use membership criteria to exclude states with different preference orderings and bestow benefits for in-group members as a way to ensure collective action.⁴⁹ Clubs have reduced legitimacy because of their limited membership but its members will have a more homogenous set of preferences. The smaller number of actors also increases a club's ability to take action. Neighborhood IGOs, such as ASEAN or the Council of Europe, use geography to place a natural limitation on membership. States can use these institutions to bolster their bargaining position in global fora. Regional hegemonies also use them to coerce or induce economically dependent allies to adopt their positions.

The two preference cleavages from the previous section create a 2X2 schema that charts four possible modes of regulatory coordination (see Table 2): harmonized standards, club standards, rival standards, and sham standards. In a harmonizing equilibrium, developed and developing governments expect significant public benefits from coordination (high π) and minimal adjustment costs (low d). This situation requires little bargaining to achieve regulatory coordination. Because of the similarity of state preferences, the harmonization of domestic

⁴⁷ Michael Walzer, *Spheres of Justice: a Defense of Pluralism and Equality*. (New York: Basic Books, 1983), chapter two.

⁴⁸ On the tradeoff between legitimacy and efficiency, see Alexander Thompson, "Channeling Power: International Organizations and the Politics of Coercion." Ph.D. Dissertation, University of Chicago, Chicago, IL.

regulations is the most probable outcome. The outcome is akin to harmony rather than cooperation because states do not need to sacrifice in order to reach agreement.⁵⁰ The paramount concerns in the creation of any governance structure are maximizing efficiency and retaining influence in any proposed change in the rules.

Because of the lack of conflict, universal IGOs would appear to be the likeliest forum for the creation and management of a harmonized regime. These organizations help to maximize the number of states formally willing to cooperate, and the legitimacy derived from their membership size increases the social costs of defection for potentially recalcitrant states. At a minimum, one would expect to see a universal IGO provide political and rhetorical support for the regulatory regime.

However, while universal-membership IGOs may play a role in legitimating the regime, it is likely that states will delegate regime management to non-state actors. This is partly for functional reasons; NGOs plugged into public policy networks can have a comparative advantage in gathering information and developing the requisite technical expertise.⁵¹ More importantly, the delegation to NGOs also provides great powers a less public way of ensuring control over the regime's governance structure.⁵² Governments can act like a board of directors: states devolve regime management to an NGO, while still ensuring that they can influence any renegotiation of the rules of the game. This arrangement is more difficult to pull off

⁴⁹ James Buchanan, "An Economic Theory of Clubs," *Economica* 32 (February 1965): 1-14.

⁵⁰ Robert Keohane, *After Hegemony* (Princeton: Princeton University Press, 1984), p. 51-54.

⁵¹ Mitchell, "Sources of Transparency: Information Systems in International Regimes.," Reinicke, *Public Policy Networks*.

⁵² This parallels the argument in American politics that regulatory agencies will be designed so that the designers can maintain their influence even in the face of exogenous shocks. See Terry Moe, "The Politics of Structural Choice: Towards a Theory of Public Bureaucracy." In *Organization Theory*, Oliver Williamson, ed. (New York: Oxford University Press, 1990).

in a universal IGO, because of the transaction costs involved in managing the interstate consensus.

There are a surprising number of issue areas where NGOs supply the dominant governance structure. One example comes from the Internet.⁵³ The Internet Corporation for Assigned Names and Numbers (ICANN) a non-profit organization incorporated in California, currently administers the domain name system in cyberspace. Prior to the creation of ICANN, one firm held a monopoly over the registration of generic top level domains (gTLDs) such as .com or .org. In the mid-1990s a network of Internet enthusiasts, firms, and IGOs (the International Telecommunications Union and World Intellectual Property Organization) banded together to propose a new global regime to manage the gTLD. The ITU arranged for a memorandum of understanding to be signed among the interested parties, and held a signing ceremony to give the agreement the trappings of an international treaty.

Most governments opposed this effort on process grounds. The U.S. Secretary of State wrote a memo blasting the ITU secretariat for acting “without authorization of member governments” and “concluding with a quote international agreement unquote.”⁵⁴ European Union governments suspected the agreement because many of the relevant actors were American. Given the ITU’s one nation, one vote structure, and the secretariat’s eagerness to independently manage the issue area, it is not surprising that the US wanted to switch fora. In response, the U.S. Department of Commerce generated a white paper on regulating the gTLDs, and insisted

⁵³ The information in the next three paragraphs comes from Renee Marlin-Bennett, “ICANN and the Global Digital Divide: Questions of Democracy and Participation,” Paper presented at the International Studies Association annual meeting, Chicago, IL, February 2001; Milton Mueller, “ICANN and Internet Governance: Sorting Through the Debris of ‘Self-Governance.’” *Info* 1 (December 1999): 497-520; and Marcus Franda, *Governing the Internet: The Emergence of an International Regime*. (Boulder: Lynne Rienner, 2001).

that the regime be privately rather than publicly managed. Other states were comfortable with this arrangement so long as there was a mechanism to influence the proposed private order.⁵⁵

The resulting governance structure – ICANN – accommodated US and European concerns. A Government Advisory Committee was created to act as a conduit for government concerns. The monopoly of gTLDs was broken. A significant fraction of ICANN’s governing board consisted on non-Americans. Renee Marlin-Bennett summarizes the outcome in the following way: “In the creation of ICANN, the United States government clearly indicated that it did not wish the International Telecommunications Union to be that source of governance. But neither did the US government take responsibility for itself. What resulted was a particularly unusual international organization: a private entity designed to make rules for a global Internet.”⁵⁶ While governments have been willing to delegate Internet governance to ICANN, they still retain significant influence. In April 2002, a Commerce official explained the US government’s influence over ICANN in this way: “We do have a contractual relationship with them, which we have the ability to modify, or, if we want, terminate. That is how our input comes into the process.”⁵⁷

When the great powers are in rough agreement on the regulatory issue at hand, but at odds with developing states, the likely route to coordination is through club standards. Core states will create coalitions of the willing to generate a common set of rules and regulations. To formalize the coalition, core states will create or capture club IGOs with strong enforcement and

⁵⁴ Quoted in Mueller, “ICANN and Internet Governance,” p. 502.

⁵⁵ The White Paper can be accessed at http://www.ntia.gov/ntiahome/domainname/6_5_98dns.htm

⁵⁶ Marlin-Bennett, “ICANN and the Global Digital Divide,” p. 5.

⁵⁷ Quoted in Susan Stellen, “Plan to Change Internet Group is Criticized as Inadequate,” *New York Times*, April 1, 2002.

sanctioning mechanisms. Stringent membership criteria permit great powers to act in concert while limiting participation in rule formation to like-minded countries.

To convince recalcitrant states into accepting the great power consensus, core states will use both the logic of appropriateness and the logic of consequences. To induce members of the periphery to cooperate, great powers can enhance the legitimacy of their institutionalized coalition by converting their preferred set of standards into customary international law. This increases the political and normative benefits for other states to join, while increasing the risk of isolation for those who resist. At the same time, powerful states can also offer material inducements, such as aid or technical assistance, to encourage peripheral states to accept the imposed standard. However, material sanctions are equally likely, since threats of coercion are less costly if successful.

Because international governmental organizations are employed for different purposes in maintaining club standards than harmonized standards, different IGOs are used to manage this regime. Ideally, core states would prefer to use universal-membership IGOs with strong enforcement mechanisms, but opposition from peripheral states diminish the chances for effective governance in those fora.⁵⁸ Instead, powerful states will rely on clubs. The mere creation of a club can sufficiently alter market payoffs to non-members such that they want to join, even if they were better off under the status quo ante.⁵⁹

Club membership organizations are useful tools for coordinating monitoring and enforcement. Membership in a club raises the political costs of defection for members. For

⁵⁸ This is particularly true if the IGO operates on a one-country, one-vote principle. See Stephen D. Krasner, *Structural Conflict* (Berkeley: University of California Press, 1985).

⁵⁹ Gruber, *Ruling the World*.

non-members, a club IGO can make it easier to pool resources to induce periphery members into agreeing to the core's regulatory regime. Policy initiators sympathetic to the core position can also use pressure from an international organization to bypass entrenched domestic interests and other institutional roadblocks. For the most recalcitrant states, a club IGO greatly enhances the utility of multilateral coercion.⁶⁰

NGOs play a less significant role in this equilibrium outcome, because the great powers are acting in concert and will rely on an IGO to create, promote, and enforce the regime. If NGOs agree with the regulatory standard set by the core, they can act as proselytizers, promoting the merits of regulatory coordination to recalcitrant members of the periphery. This type of activity can allow the core to rely on persuasion rather than coercion to ensure global participation. If NGOs oppose the regulatory standard, they can act as protestors, rallying support for states excluded from the club. In either case, their actual influence is marginal. NGOs will simply lack the resources to successfully oppose a great power concert.

One can see this style of regulatory coordination in the formation of an international regime to guard against money laundering. In 1989, the G-7 countries created the Financial Action Task Force (FATF) to develop a set of recommended practices affecting financial supervision and regulation, appropriate law enforcement guidelines, and protocols for international cooperation to combat the laundering of funds through global capital markets. These practices were codified into the FATF Forty Recommendations.⁶¹ Core states worked

⁶⁰ Lisa L. Martin, *Coercive Cooperation* (Princeton: Princeton University Press, 1992); Daniel W. Drezner, "Bargaining, Enforcement, and Multilateral Economic Sanctions: When is Cooperation Counterproductive?" *International Organization* 54 (Winter 2000): 73-102.

⁶¹ See Financial Action Task Force, "The Forty Recommendations," at http://www1.oecd.org/fatf/40Recs_en.htm

to enlarge the number of countries recognizing the FATF 40 as an accepted standard. FATF expanded its membership to 29 countries by 2000. The G-7 encouraged the creation of FATF-style regional bodies in the developing world, such as the Caribbean Financial Action Task Force and the Asia-Pacific Group on Money Laundering. For these regional groups, the G-7 proffered technical assistance to ensure adherence and recognition of the FATF 40.

For those members of the periphery that resisted, FATF initiated an exercise to “name and shame” countries with deficient anti-money laundering standards. In June 2000, FATF blacklisted fifteen countries, including Russia, Israel, Panama, and the Philippines; in 2001, FATF added eight countries to the list, including Myanmar, Egypt, Hungary, Indonesia, Nigeria, and Ukraine. Both FATF and the G-7 threatened to implement countermeasures – including the restriction of financial transactions and the suspension of IMF and World Bank loans – unless these countries enacted legislation consistent with the FATF 40.⁶² Anti-corruption NGOs, such as Transparency International, strongly supported the FATF enterprise and urged emerging markets to combat money laundering as a means of fighting kleptocracy.

This mix of policies succeeded in generating international regulatory coordination.⁶³ By August 2001, over 140 countries and territories had publicly acknowledged the FATF 40 as the accepted international standard for anti-money laundering. At their Spring 2001 meetings, the Boards of the International Monetary Fund and the World Bank also recognized the FATF 40 as the accepted global standard, despite vociferous objections from China, Russia and other

⁶² FATF, “Criteria for Defining Non-Cooperative Countries or Territories,” February 2000, p. 9, available at http://www.oecd.org/fatf/pdf/NCCT_en.pdf; G-7 Heads of State Communiqué, July 21, 2000, paragraph 26, at <http://www.g7.utoronto.ca/g7/summit/2000okinawa/statement.htm>

⁶³ Beth Simmons, “The International Politics of Harmonization: The Case of Capital Market Integration,” *International Organization* (Summer 2001): 589-620.

developing countries.⁶⁴ Of the fifteen countries threatened with sanctions in June 2000, fourteen of them enacted anti-money laundering legislation consistent with FATF preferences. Other countries, reacting to the FATF initiative, have established anti-money laundering regimes to avoid even the threat of sanctions. Through club IGOs, core countries used a mixture of incentives and sanctions to fashion an enforceable club standard.

Rival standards occur when great powers lack a bargaining core among each other but share preferences similar to some developing countries. Getting any great power to agree to a regulatory schema that benefits them less than other great powers would be difficult. Coercive tactics are less likely to yield results than in the club standards outcome. Great powers are by definition less vulnerable to economic coercion. They can also thwart any organized multilateral attempt at pressure, and *ad hoc* pressure coalitions have a low probability of success.⁶⁵

Since negotiations among the great powers are likely to fail, these states have an incentive to engage in balancing behavior, expanding the group of decision-making actors to include their allies. Great powers will therefore choose international bargaining fora where the membership and the governance structure benefits their position, and try to expand the membership of their preferred international body with members of the periphery that share their preferences.⁶⁶ The outcome is therefore one of rival standards. Different groups of countries will generate alternative sets of regulatory standards, while trying to weaken the legitimacy of

⁶⁴ See the IMFC Communiqué, April 29, 2001, at <http://www.imf.org/external/np/cm/2001/010429c.htm>. Russian and Chinese objections can be seen in their statements to the IMFC at <http://www.imf.org/external/spring/2001/imfc/rus.htm> and <http://www.imf.org/external/spring/2001/imfc/chn.htm> respectively.

⁶⁵ Drezner, "Counterproductive Cooperation,"

⁶⁶ This is similar to E.E. Schattschneider's concept of audience expansion. E.E. Schattschneider, *The Semisovereign People* (New York: Holt, Rinehart and Winston, 1960).

competing standards. Unless the distributional issues among the great powers are resolved, the likely outcome is one of repeated cycles of bargaining, contestation, and conflict.

International governmental organizations will play a contested role in this scenario. Powerful states will forum-shop among IGOs with overlapping mandates until they find a situation where their preferences are likely to prevail. Great powers will want to ensure a friendly fora, so they are likely to seek as many allies in the periphery as possible as a way to enhance the legitimacy and bargaining power of their preferred set of regulatory standards. At the same time, core states are likely to opt out or ignore fora when they are on the losing side of a regulatory arrangement. IGOs of all stripes will be used, but great power conflicts will curtail their effectiveness.

The rival standards scenario gives NGOs the greatest opportunity to advance their preferences when they clash with some states. If NGOs are in sufficient agreement to form transnational activist networks, public policy networks or epistemic communities, they can act as consensus-builders.⁶⁷ Experts can lobby government bureaucrats, IGO secretariats, and corporate leaders as a way of building bottom-up support for their preferred position. Governments that face a combination of external pressure from other states and internal pressure from an array of interests will alter their preference ordering to stay in power.⁶⁸ If NGOs are successful, they can end the cycle of bargaining, defection, and conflict, converting a unstable equilibrium of rival standards into a more robust equilibrium of harmonized standards.

⁶⁷ On transnational activist networks, see Margaret Keck and Kathryn Sikkink, *Activists Beyond Borders* (Ithaca: Cornell University Press, 1998); on public policy networks, see Reinicke, *Global Public Policy*, and Slaughter, "The *Real* New World Order,"; on epistemic communities, see Haas, "Introduction: Epistemic Communities and International Policy Coordination."

⁶⁸ Audie Klotz, *Norms in International Relations* (Ithaca: Cornell University Press, 1995).

An obvious example of this is the epistemic community's role in establishing the base of scientific facts underlying the Montreal Protocol.⁶⁹ However, the conditions under which this could happen are rare; it requires a genuine consensus along the entire spectrum of non-state actors.

The attempt to regulate genetically modified organisms (GMOs) is one example of rival standards.⁷⁰ On this issue, the US and EU are far apart in their preferences. The US is against most regulatory restrictions on GMOs, as this hurts its agricultural exports.⁷¹ EU members prefer placing restrictions on GMOs to reduce competitive pressures on their agricultural sector and to ally public concerns over "Frankenfoods."⁷² Developing countries are also split between agricultural exporters and import competitors.⁷³

The United States and other food exporters in the "Miami group" (Argentina, Canada, Chile, and Uruguay) have relied on the World Trade Organization's dispute resolution panels to strike down any EU laws restricting trade in GMOs. The Miami group also holds sway over the Codex Alimentarius Commission, a U.N. emanation that establishes "food codes" based on scientific principles. The General Agreements on Tariffs and Trade defer to the Codex to establish appropriate sanitary measures.⁷⁴ Not surprisingly, WTO panel rulings consistently

⁶⁹ Peter Haas, "Banning Chlorofluorocarbons: Epistemic Community Efforts to Protect Stratospheric Ozone." *International Organization* 46 (Spring 1992): 187-224.

⁷⁰ Gilbert Winham, "Regime Conflict in Trade and Environment: The Cartagena Protocol and the WTO," Paper presented at the International Studies Association annual meeting, Chicago, IL, February 2001; Jeffrey Lewis and David Nixon, "Transnational Regulatory Conflict and the Problems of Deeper Integration," Paper presented at the International Studies Association annual meeting, Chicago, IL, February 2001.

⁷¹ K.T. Arasu, "Biotech Crops Make Inroads," Reuters, April 28, 2002.

⁷² Aseem Prakash and Kelly Kollman, "Biopolitics in the EU and the US: Race to the Bottom or Convergence to the Top?" Paper presented at the International Studies Association annual meeting, New Orleans, LA, March 2002.

⁷³ Sybil Rhodes, "The Politics of Frankenfood: The Role of States, Corporations, and Interest Groups in the Genetically Modified Foods Debate." Paper presented at the International Studies Association annual meeting, New Orleans, LA, March 2002.

⁷⁴ GATT Article XX(b); Agreement on the Application of Sanitary and Phytosanitary Measures, Article 2.2.

support the Miami group's position that attempts to restrict GMOs without credible scientific evidence of possible harm violate international trade law.

Having failed at altering the rules in these IGOs, the European Union switched fora to another United Nations emanation to advance its regulatory preferences. In January 2000, the Cartagena Protocol on Biosafety, an outgrowth of the 1992 Rio Convention on Biodiversity, endorsed using the "precautionary principle" in the treatment of large modified organisms. This principle states that potentially dangerous activities can be restricted or prohibited *before* they are scientifically proven to cause serious damage.⁷⁵ The result is a legal stalemate, with the biosafety protocol's precautionary principle flatly contradicting the trade regime's norm of scientific proof of harm. Legal experts agree that it will be difficult at best to reconcile the WTO and Cartagena regimes.⁷⁶

The final category is the least likely one to lead to substantial coordination. In this scenario, minimal benefits from coordination or high adjustment costs leave great powers without a bargaining core for each other and for developing countries. In this situation, powerful states lack the ability to attract allies in the periphery, making it difficult to use balancing strategies. An obvious outcome is the simple absence of any international regime, and therefore no global standard. A similar outcome is the creation of "sham" standards. Governments will agree to a notional set of global standards with weak or nonexistent monitoring or enforcement schemes. Sham standards permit governments to claim the *de jure* existence of regulatory

⁷⁵ For the official EU explanation, see "Communication from the Commission on the Precautionary Principle," February 2, 2000, at http://europa.eu.int/comm/dgs/health_consumer/library/pub/pub07_en.pdf.

⁷⁶ Urs. P. Thomas *et al*, "The Biosafety Protocol: Regulatory Innovation and Emerging Trends," *Revue Suisse de Droit International et de Droit Européen* 10 (April 2000): 513-558.

coordination, even in the absence of effective enforcement. These standards act to relieve any domestic pressure for significant global regulations.

Great powers will also use coercion to advance their preferences. Unilateral pressure can be effective if applied against a dependent ally, or if it is applied against firms rather than states. Asymmetrically dependent states in the periphery will be willing to acquiesce because they care more about maintaining the trading relationship than the distributional implications of any concession.⁷⁷ Similarly, firms dependent on the core market will acquiesce to coercive pressure.⁷⁸ Through these tactics, core members will generate their own spheres of influence where their regulatory preferences hold.

Two types of IGOs are involved in the “management” of this type of international regime. Universal IGOs will be the creators and stewards of any sham standards. At the same time, the absence of any interstate consensus will prevent any real enforcement from taking place. Great powers will also exploit neighborhood IGOs to expand the domain of their regulatory standards. Regional allies will be most vulnerable to coercive tactics, and the creation of regional standards increases a regional hegemon’s bargaining leverage in any future global negotiations.⁷⁹

NGOs have several possible roles to play in this type of international regime. In the absence of genuine international cooperation, NGOs that prefer to see more stringent global regulations can pursue three strategies. First, they can try to enhance the legitimacy of sham

⁷⁷ Daniel W. Drezner, *The Sanctions Paradox: Economic Statecraft and International Relations* (Cambridge: Cambridge University Press, 1999); Drezner, “Outside the Box: Explaining Sanctions in Pursuit of Foreign Economic Goals.” *International Interactions* 26 (Summer 2001): 379-410.

⁷⁸ Shambaugh, *States, Firms, and Power*.

⁷⁹ See the citations in the last two footnotes, as well as Edward Mansfield and Helen Milner, eds., *The*

standards by acting as an imperfect enforcement substitute. Enforcement activities would include “naming and shaming” exercises as well as the sponsoring of consumer boycotts. If successful, states and/or firms pay a public relations price for violating these standards. For firms concerned about with brand image, these measures can have some effect.⁸⁰ Second, in the absence of sham standards, NGOs can generate their own “voluntary” codes and standards and apply consumer pressure on multinational corporations to adhere to them. If efforts at enforcement fail, they can at least act as monitors of corporate and state behavior. Third, NGOs can act as lobbyists, cajoling core states into narrowing their set of preferences so that interstate coordination is possible.

An empirical example of this type of governance structure is the international regime for labor standards. Developing states adamantly oppose the strict enforcement of any labor standards, fearing that they will be used as a cover for protectionism by core countries. The core states are also far apart on the appropriate international standard. The U.S. wants to enforce minimal labor codes. Some continental European states prefer more stringent rules regarding the minimum wage, guaranteed health benefits, and the power of peak union associations. Germany, Japan, and Great Britain are leery of any measure to enforce labor standards.⁸¹

Because of the lack of agreement within the core and the periphery, the international regime governing labor standards is weak. The International Labor Organization manages this issue area, and the ILO has issued over a hundred conventions governing labor standards. In

Political Economy of Regionalism (New York: Columbia University Press, 1997).

⁸⁰ *Economist*, “Brands: Who’s Wearing the Trousers?” September 8, 2001; Deborah Spar, “The Spotlight and the Bottom Line,” *Foreign Affairs* 77 (March/April 1998).

1998, the ILO members agreed to a set of core labor standards – prohibition against abusive child labor, forced labor, discrimination in hiring practices, and the right to collective bargaining – requiring the adherence of all its members.⁸² However, compliance with these conventions has been erratic at best. ILO efforts to enforce core labor standards against even the worst offenders – like Myanmar – have proven to be ineffective.⁸³ The United States has repeatedly failed in its attempt to shift the governance of labor standards from the ILO to the WTO, most recently in Seattle.⁸⁴ This failure is due to the opposition of less developed countries who believe such standards would put them at a competitive disadvantage.

The weak global regime has led to competition among regional and private sets of standards. The European Union requires new entrants to adhere to a panoply of labor regulation; the United States required Mexico to agree to enforce its own labor standards before joining NAFTA. Furthermore, the U.S. has also been willing to unilaterally coerce developing states into ratcheting up their labor standards.⁸⁵ At the same time, NGOs have tried to apply pressure on multinational firms to commit to voluntary sets of labor standards.⁸⁶

Table 3 summarizes the principal traits of the various outcomes. The table illustrates the variety of IGOs employed in managing global regulations. IGO effectiveness declines as great power disagreements rise. The role and influence of non-state actors also varies widely, ranging

⁸¹ O'Brien *et al.*, *Contesting Global Governance*, chapter three.

⁸² OECD, *International Trade and Core Labour Standards* (Paris: OECD, 2000), Part I.

⁸³ Associated Press, "SE Asian Labor Ministers Urge ILO to 'Understand' Myanmar," May 10, 2001.

⁸⁴ Steve Charnovitz, "The Influence of International Labour Standards on the World Trading System: A Historical Overview," *International Labour Review* 126, No. 4 (1987), pp. 565-584; Charnovitz, "Promoting Higher Labor Standards," *The Washington Quarterly* 18 (Summer 1995): 167-190.

⁸⁵ Peter Dorman, *Worker Rights and U.S. Trade Policy* (Washington: U.S. Department of Labor, 1989).

Kimberly Ann Elliott, "Preferences for Workers? Worker Rights and the US Generalized System of Preferences." Working paper, Institute for International Economics, May 2000.

⁸⁶ Gary Gereffi, Ronie Garcia-Johnson, and Erika Sasser, "The NGO-Industrial Complex," *Foreign Policy* 125

from regime management to powerlessness in the face of a great power concert. The salience of great power preferences remains constant. If these states act in concert, the outcome is effective policy coordination regardless of the preferences or strategies of other actors. If these states have divergent preferences, then effective policy coordination is possible but highly unlikely.

VI. Conclusions

Significant empirical work remains to substantiate the theoretical propositions made in this paper. Nevertheless, this model does suggest some intriguing conclusions for international relations theory in an era of globalization. The effectiveness of both NGOs and IGOs clearly depends on state power and preferences. NGOs can range from playing a paramount role in regime management (harmonized standards) to largely acting as cheerleaders on the sidelines (club standards). The typology of regulatory coordination proposed here could prove useful in explaining when, rather than if, NGOs will play an important role in international affairs.

Similarly, this theory demonstrates the extent to which great powers will engage in forum-shopping to match the proper IGO to the proper political environment. Each type of IGO proves useful for different constellations of state interests. Club IGOs are most prominent when great powers are in agreement but North-South tensions remain. Neighborhood or regional IGOs prove useful as a means for powerful states to develop regulatory spheres of influence. Universal IGOs will have a spotty track record of success. In the case of

harmonized standards, these organizations will play a legitimating role. In the case of sham standards, these IGOs will be set up to fail.

This paper also has implications for the scholarly debate about the extent to which international agreements require enforcement. For some cases, such as harmonized standards, coordination requires little enforcement, which is consistent with the management approach to international compliance.⁸⁷ However, for the other quadrants, cooperation will be difficult to achieve, and in the cases of North/South disagreement will often involve threats of coercion. This is consistent with arguments that effective cooperation only occurs under a limited set of circumstances.⁸⁸

Most important, this theory makes it clear that great powers are the key actors in determining the pattern of global regulatory regimes. If they can agree among themselves, coordination will occur regardless of NGO, IGO, and peripheral state preferences. Opposition from these actors only affects the means of regulatory coordination, not the ultimate end. By giving great powers pride of place in the global political economy, it is also easier to understand how other actors can maximize their influence. Globalization has led to states removing their traditional policy levers for managing foreign economic relations: tariffs, quotas, exchange rate controls, etc. It does not mean that state capabilities more generally have been weakened.

Recognizing that global governance structures can be substituted for each other also provides a more powerful lens to understand the ramifications of globalization. States can substitute unilateral measures, intergovernmental accords, and delegation to non-state actors to coordinate and enforce

⁸⁷ Abram Chayes and Antonia Handler Chayes, "On Compliance," *International Organization* 47 (Spring 1993): 175-206

international regimes. By failing to recognize this fact, scholars of global governance have unnecessarily restricted their analyses to simple comparisons of direct state involvement versus the role of non-state actors. Ironically, globalization scholars have not erred in thinking too grandly about global governance, but in not thinking grandly enough.

⁸⁸George Downs, David Rocke, and Peter Barsoom, "Is the Good News about Compliance Good News about Cooperation?" *International Organization* 50 (Summer 1996): 379-406.

TABLE 1
THE COORDINATION GAME

		STATE B	
		Switch to country A's standards	Retain national standards
STATE A	Retain national standards	<i>Coordinate at A</i> (π , $\pi - d$)	<i>No coordination</i> (0, 0)
	Switch to country B's standards	<i>No coordination</i> (-d, -d)	<i>Coordinate at B</i> ($\pi - d$, π)

π = benefits from regulatory coordination

d = adjustment costs of moving to a new regulatory standard

TABLE 2
A TYPLOGY OF REGULATORY COORDINATION

		Divergence of preferences between great powers/developing states	
		High conflict	Low conflict
Divergence of preferences among great powers	High conflict	Sham standards	Rival standards
	Low conflict	Club standards	Harmonized standards

TABLE 3
ATTRIBUTES OF DIFFERENT REGULATORY SCHEMA

	Sham standards	Rival standards	Club standards	Harmonized standards
State strategies	Unilateral coercion and inducements	Competing standards; Schattschneider-style expansion of audience if losing	Great power concert; multilateral coercion and inducements	Functional optimization, delegation
Predicted solution	Weakly enforced standards; repeated conflict	Competing standards in multiple fora; great power opt-outs; unstable equilibria	Core-created and core-imposed standards	Technical standards
IGO role	Political cover; regional bodies significant	Competing arenas for bargaining	Coalition-building, standard-setting, strong monitoring/enforcement role	Legitimation
NGO role	Lobbyists; norm promoters; substitute enforcers	Consensus-builders	Proselytizers; protestors	Standard-setters
Empirical examples	Greenhouse gases; labor standards	CFC emissions; whaling; GMOs	Money laundering; intellectual property rights	Product standards; Internet protocols