

Julie Chmelíková

M.A. Dissertation Evaluation

WTO as a Negotiation Forum between the USA and Brazil

2018

Julie Chmelíková has elected to write her M.A. dissertation about the World Trade Organization (WTO) and its effectiveness in settling trade disputes between the United States and Brazil. As her supervisor, I consulted regularly with Julie and I would like to convey my thanks to my dear colleague, Dr. Magdalena Fiřtová, who was very helpful to Julie regarding economic matters. The treatise is beautifully written and is divided into an Introduction, three main chapters, and a Conclusion. In the following paragraphs, I will offer my comments on each segment of the work.

The Introduction is well conceived. At the very beginning, Julie contends that the WTO Dispute Settlement Mechanism (DSM) is important for Brazil's trade strategy and states her intention to explain why this is the case. She begins with an observation that Brazilian trade policy has shifted from negotiation to litigation. Her idea is that Brazil is trying to weaken the economic power of the United States by pointing out where the United States is not in compliance with WTO regulations. In fact, this failure to obey the rules has resulted in Brazil (and other countries) to try to change the overall rules of the economic order. Julie goes on to discuss the theories of eminent scholars on how the United States has been undermining its own hegemony by failing to adhere to the rules set by the WTO. She then explains why she has chosen two case studies, namely patent protection and cotton subsidies, to prove her point. The three main chapters are aptly summarized in the

Introduction and Julia also provides a thorough review of the literature. She also convincingly explains her choice of case study methodology as the best way to grasp the complexities of dealing through the WTO. Overall, I am very pleased with the Introduction.

In Chapter 1, Julie analyzes dealings between Brazil and the United States involving the WTO. She makes the point that Brazil is the fourth most active WTO member after the United States, the European Union, and Canada. Mention is also made of the great legal expertise at Brazil's disposal allowing Brazil to initiate disputes. Given that Brazil is classified as a developing country, its investment in the legal sphere is rather impressive. Brazil has brought three times the number of DSM cases against the United States, as has the United States against Brazil. Brazil is also unique because, unlike most other Latin American countries that bring cases against countries in the region, Brazil initiates most of its cases against developed countries. Julie includes a number of tables in the chapter and the crux of the matter is that Brazil frames its priorities on the basis of its own comparative advantage. In sectors like agriculture, in which Brazil enjoys comparative advantage, Brazil favors liberalization, but in sectors like pharmaceuticals, Brazil opposes liberalization because the comparative advantage belongs to the United States. Above all, Brazil pursues cases that can potentially bring about changes in the system and, thus far, appears to have been quite successful. This chapter is quite convincing and it demonstrates how developing countries like Brazil can use international organizations like the WTO to their advantage.

Chapter 2 discusses the issue of patents as a bone of contention between the United States and Brazil. The United States brought the case claiming that Brazil's Industrial Property Law was in breach of the WTO regulation "The Agreement on Trade-Related Aspects of International Property Rights" (TRIPS). The issue in question was medical patenting. Basically, the United States argued that Brazil's Industrial Property Law could allow drugs patented in the United States to be produced more cheaply in Brazil as generics by other companies if the American manufacturer did not produce at least part of the given drug in Brazil within three years. Julie explains the legal intricacies of the case, which was ultimately dropped by the American side because the UN General Assembly initiated a conference on how best to combat the global AIDS epidemic. It is demonstrated how the outcome of (and decision to drop) this case was heavily influenced by political pressure and NGOs. Brazil was able to shift emphasis to availability of drugs in developing countries and the United States ultimately found it unfeasible to pursue its patent protection case further. In fact, NGOs have played a significant role in other WTO disputes. Additionally, cases such as the one described here can lead to precedents that have broader implications for the future. This chapter is very well written and argued.

The case brought by Brazil against the United States over American cotton subsidies forms the subject of Chapter 3. As Brazil emerged as a major cotton exporter just some years prior to the case in question, Brazil felt confident it could win in a case against American cotton subsidies. The Brazilians argued that the Americans were going against the spirit of free trade by heavily subsidizing cotton

manufacturers, thus giving them an unfair advantage in the global marketplace. Brazil actually won the case, the United States failed in an appeal and then the United States continued to ignore the WTO ruling. The matter was only resolved when Brazil was due (with the WTO's blessing) to suspend American intellectual property rights in retaliation. In the end, the Americans agreed to provide the Brazilian cotton industry with subsidies until the opportunity would arise to change American legislation and end the unfair American subsidies. Indeed, American farm legislation did change and a precedent was set. This case is important as it demonstrates how Brazil (a developing country) can successfully use rules imposed largely by the United States (the hegemon) against the United States within the framework of the WTO. Once again, this chapter is nicely written and convincingly argued.

In the Conclusion, Julie recapitulates her main points and reiterates that Brazil uses the Dispute Settlement Mechanism (DSM) in order to affect change. By filing complaints against developed countries, seeking the attention of politicians and NGO alike, and being able to demonstrate the overall importance of its claims, Brazil has indeed affected change. Julie writes that, in this regard, Brazil, with its investment in legal expertise, has surpassed countries like China and India in the utilization of international organizations to further its own purposes.

My overall impression of this dissertation is very positive. Apart from a few spelling mistakes and somewhat peculiar numbering of sections within individual chapters, the work is of excellent quality and I recommend an **EXCELLENT** classification. I have one question, however. **How successful do you think the**

strategy employed by Brazil in trade disputes at the WTO will be in the near future considering the aversion of President Donald Trump to international organizations?

.....
doc. PhDr. Francis D. Raška
Faculty of Social Sciences
Charles University
Institute of International Studies
Department of North American Studies