

BOOK REVIEW

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## ***Competitiveness and Death: Trade and Politics in Cars, Beef, and Drugs***

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When are states more likely to increase, decrease, or maintain domestic regulations when these regulations are contested in trade negotiations by domestic and foreign actors? This variation in negotiating outcomes is what *Competitiveness and Death* attempts to explain. Winslett approaches the politics behind regulatory barriers in trade negotiations as a function of the interplay between three different actors that align themselves along two major concerns or frames: competitiveness and death. Using these two frames, he traces the success or failure of firm and activist efforts to influence government officials in either increasing or decreasing regulatory trade barriers. He argues that the existence or absence of regulatory trade barriers depends crucially on a complex but predictable interplay between the commercial motivations of firms who frame their interests along concerns over competitiveness, and the societal interests of activists that frame their pursuits in terms of avoiding meaningless death. Policy-makers are the tie-breakers, and side either with firms or activists when their interests are opposed. The case studies in this book trace the interactions between these three actors across different trade negotiations that involved regulatory barriers to trade.

Winslett's focus on regulatory barriers to trade reflects and is inspired by the regulatory turn in trade politics which emerged with the codification of non-tariff barriers in the Tokyo round of the General Agreement on Tariffs and Trade (GATT) and gained prominence with the negotiation of the SPS and TBT Agreements during the Uruguay Round. This book starts by introducing a framework for explaining trade policy outcomes applicable to regulatory trade barriers, and is succeeded by a chapter laying out how regulations became the crux of trade politics. Chapter 3 develops the argument, the motivations of the different actors, and the author's main expectations. It is the central theoretical chapter and Winslett returns to it often in the empirical chapters that follow to create an integrated narrative. Chapters 4 to 7 tackle three overarching cases in depth, starting with regulations on cars, followed by regulatory barriers put in place to address the outbreak of mad-cow disease, and finally sticks the landing with Intellectual Property (IP) regulation and the trade of pharmaceuticals.

Taken at face value, Winslett's overarching argument is quite straightforward: he expects that businesses will be more successful at convincing policy-makers to remove regulatory barriers to trade if they can connect this goal to competitiveness frames. Activists are more likely to convince policy-makers to uphold or increase regulatory barriers if they can convincingly argue that it prevents needless death (p. 9).<sup>1</sup> These two propositions are co-occurrent: throughout the case studies, businesses and activists are shown to be pulling in opposite directions. The outcome of trade

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<sup>1</sup>Preventing needless death is introduced by Winslett as any argumentation used by activists that alludes to decreased safety (in car manufacturing and testing) that could lead to an increase in deaths or accidents, or adverse health implications such as higher IP standards that would exclude a significant part of the world population from certain life-saving medications.

negotiations that involve regulatory barriers are hypothesised to be dependent on the extent to which the different actors are able to connect their interests to these opposing frames, whether they are simultaneously opposed in their efforts, and the extent of policy-makers' 'allegiance' to businesses or activists. Why businesses, activists, and policy-makers use these competing frames rests on empirical observations of their behaviour. In short, businesses are expected to seek regulatory adjustment when regulations raise production costs or inhibit market access, but they stand down in the face of reputational costs, countervailing internal values, and cheap compliance (p. 54). Activists seek to maintain or increase regulatory trade barriers if they feel regulation is the only way to ensure consumer safety, and prefer to leverage trade over expansion. Conversely, activists remain silent on issues of low salience or when they are offered alternative cooperative means of achieving their objectives, such as firms regulating themselves through corporate social responsibility initiatives (p. 62). Lastly, a decision by policy-makers to side with businesses or activists depends on whether they prioritize regulatory independence or trade, their staffing favors either group, or they identify business or activist groups as a core constituency. Policy-makers therefore become 'Marginalizers and Champions' of either business or activist interests (p. 62).

Winslett's greatest contribution to the existing literature is the systematic inclusion of activists and policy-makers into a coherent history of trade negotiations. Chapter 2 sets the stage by providing an overview of the decades-long process through which regulations became central to trade negotiations and how regulatory barriers have influenced domestic politics. This is a valuable contribution to the literature, both for new scholars in need of an overview or advanced scholars seeking to situate specific events in the broader timeline. Similarly, the episodic chapter on 'Mad Cow Regulations' in the *US–Japan Beef* trade provides new insights into a trade policy dispute which has not received academic attention since the early 1990s (p. 113). The *Japan–US Beef* case shows how activists in Japan were able to hold off on reducing regulatory barriers in the face of strong opposition from American businesses that were able to incite their own policy makers to lobby on their behalf. Japanese consumer activists were, of course, supported by domestic industry and the officials who had no great political incentive to stray from the precautionary approach to food safety regulation. Notably, it was the Trans-Pacific Partnership and the package deal that this agreement offered which provided the carrot needed to lift restrictions on US beef imports, but only as domestic concerns about mad cow disease started to wane due to a drop in cases in the United States (p. 138).

Winslett also challenges alternative hypotheses that have been put forward to explain the variation in outcomes of regulatory issues in trade agreements. For starters, Winslett seeks to expand what he calls 'cleavage-based' explanations of regulatory outcomes by building on the thread of New and New New Trade Theory (p. 5). These theories of preference aggregation are cleavage-based in that they emphasize the motivations of different *economic* 'winners and losers' of trade liberalization whose preferences are deduced from the assumptions of profit-maximization and loss aversion. His main argument is that these economic theories are in dire need of a 'political companion' (p. 7) in general, and especially now that the trade policy domain has expanded to include regulatory decisions aimed at protecting consumers or ensuring public health.

The case study on automobile regulations in Europe and North America includes 11 different episodes, demonstrating the interplay between competitiveness and death arguments. In the European case, activists' environmental concerns work alongside businesses' competitiveness concerns until the price of catalytic converters drops, and businesses' resistance with it, leading to regulatory change. In North America, a host of environmental, safety, and domestic content requirements are considered. In general, business was regularly consulted, activists had difficulty connecting their concerns to needless death, and competitiveness won the day. This was even true in a sub-case about mandatory seatbelt regulations in Mexico: since there were no policy entrepreneurs pushing for higher standards, businesses reaped the benefits of lower production costs (p. 104).

The notion that business simply ‘dominates’ any other preference is also questioned by looking at instances when business preferences are forced to compete with those of activists (p. 75). The most successful case where there are clear opposing frames between activists and business, and activists end up winning-out is in the case of the Doha Declaration, where activists managed to convince policymakers to increase regulatory barriers to trade, or, more specifically, to strengthen developing states’ ability to implement different IP regulations (p. 159). In Chapter 6, Winslett first shows how US firms were able to reduce regulatory barriers to trade by pushing WTO members to agree to *raising* IP standards in the absence of significant activism from public health activists during the TRIPS negotiations (p. 149). Lower IP standards constitute a regulatory barrier to trade since, for pharmaceutical companies holding patents in one country, low IP standards in another means that their products are not protected by monopoly rights and are no longer competitive (pp. 145–148). Later, during the Doha Round, public health activists became engaged in IP issues and managed to frame these around preventing needless death because lower IP regulations increased access to life-saving drugs. As a result, the pendulum swung the other way, and activists succeeded at increasing regulatory barriers to trade, allowing for policy variation on IP.

Winslett also seeks to address the notion that business sees/uses regulatory barriers as a form of ‘disguised protectionism’ (p. 76). Here his argument is more successful at showing that in those cases where businesses seek protection, they might prefer a tool such as tariff barriers rather than regulation. Furthermore, the concept of the ‘California effect’<sup>2</sup> as the unequivocal result of economic preference aggregation is questioned for its underappreciation of the sources of political will for regulatory upgrading. Winslett empirically shows that while leveraging market access is an important factor in producing this effect, it is not in and of itself a sufficient condition to expect a regulatory upgrade. He ventures to posit certain hypotheticals that will need to be explored in the future, such as size of the leveraged market, the willingness of the counterparty to conclude a deal, and the alternatives open to producers. The main example of this is the absence of the California effect in the *Japan–US Beef* case (Chapter 5).

Finally, Winslett aims to broaden state-centric explanations where state preferences are assumed without any attention to how these came to be. State-centric explanations see trade regulation as the outcome of a distributional conflict, where the winner is determined by ‘who has the most power’ (p. 80). It is a common criticism against system-level and state-centric explanations that they lack the micro-foundations to comprehensively explain the outcome of trade negotiations. Given that the focus of this book is to show the importance of the inclusion of societal actors in research on regulatory trade negotiations, it is a necessary but ultimately self-evident contribution.

It is perhaps a matter of form, but the ambitious challenge of empirically falsifying existing theoretical foundations *and* presenting a coherent framework for understanding the mismatch proved overwhelming. The book is structured as a deductive test of observations borne out of the same empirical data which the theory was derived from. Because Winslett takes a grounded theoretical approach, his expectations ought to bounce back and forth between theory and data. But very little attention is given to explaining the motivations of businesses, activists, and policy-makers once behavioural patterns are identified. ‘Competitiveness’ and ‘death,’ are observations rather than propositions. While Winslett is self-critical of his *ex-ante* inductive theorization of the motivations of his actors (p. 81), it is not necessarily a drawback since the result is an observation that confronts existing explanations with an empirical challenge to suggest future theoretical refinements. But it does demand further research to complete the ‘grounded’ loop.

<sup>2</sup>The California effect maintains that by leveraging market access a country or state can induce regulatory upgrading on issues such as environmental standards in trade partners’ jurisdictions (Vogel, 1995). The size of the market of the leveraging player is seen as an important independent variable to explain this trading-up dynamic, and much less attention is dedicated to the political processes that precede the eventual regulatory upgrade. This is where Winslett makes his contribution. D. Vogel, (1995) *Trading Up: Consumer and Environmental Regulation in a Global Economy*. Harvard University Press.

Both constructivist scholars studying endogenous legitimation dynamics at work and rational thinkers focused on the interplay of interests will appreciate *Competitiveness and Death* for the depth of analysis and its focus on how intersubjective processes lead to policy outcomes. The reader is presented with an empirically rich tale of two framing strategies which appear to be interlocked in a somewhat predictable dance. But a great theoretical vacuum is opened up in the wake of this observation. While the book might well describe an ingrained pattern of behaviour, ‘competitiveness and death’ is not yet a *theoretical* argument in and of itself. The interplay between these two framing strategies is an empirical observation, which, now that it has been established, demands explanation: why do firms and activists frame their concerns along these two dimensions? In this sense, the book is an excellent start to a promising research agenda for academics and students of regulatory trade politics alike. Winslett’s main academic contribution lies in postulating a theoretical gap in pre-existing theories – and then meticulously demonstrating the interplay between various societal actors. He has succeeded in *proving*, as in challenging, the rule, by pulling on the loose threads of existing scholarship. In so doing, he has inherited a somewhat tangled yarn – and we are excited to see what he makes of it next.

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