

BOOK REVIEWS

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Supplying Compliance with Trade Rules: Explaining the EU's Responses to Adverse WTO Rulings

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To what extent do international obligations constrain state behaviour, and how does international law impact domestic policies? These are the overarching questions that guide Young's research in *Supplying Compliance with Trade Rules*. More specifically, the book speaks to a critical debate within international political economy on whether, why, how, and when decisions at the World Trade Organisation (WTO) lead to domestic policy change in the EU. In short, Young argues that the EU takes WTO compliance seriously, not because it is a distinctive type of international actor or because it is pressured by exporters concerned about enforcement tariffs, but because EU policy makers care about compliance for pragmatic, rationalist reasons.

By focusing on the policy implications of adverse WTO rulings, Young overcomes two of the main challenges in distilling the exact impact of international institutions on domestic policy. First, because the WTO has an enforceable, two-tiered dispute settlement mechanism (DSM), it offers a unique opportunity to overcome the main endogeneity problem that bedevils analysis of the impact of international institutions on domestic policies. Absent the DSM, it would be difficult to attribute causality to an international institution itself because states are said to create and shape institutions in line with their existing policies and preferences. For this reason, Young investigates disputes that resulted in an adverse ruling benefiting the complaining party, imposing 'inconvenient obligations' upon the respondent. With inconvenient obligations Young means those international obligations that arise from commitments made by members which require domestic policy change in order for the member to come into compliance with the rules. This approach highlights cases of 'second order' compliance in which, after failing to shape the international regulations in line with their preferences, judicial decisions in an international organization require the responding party to bring its policies into compliance with its obligations.

Secondly, Young conceptualizes policy change in direct response to a WTO dispute as his dependent variable, rather than compliance. Specifically, this means any change of the specific policy targeted by the complainant in a WTO dispute, irrespective of whether the change is partial or full, or considered sufficient or insufficient to constitute compliance. Technically, compliance is only achieved through mutual agreement of the disputing parties (Article 22.8) or through a finding by a panel set up under Article 21.5 of Annex 2 of the WTO agreement when the complainant believes the respondent is not making the necessary adjustments to enter into compliance with a ruling. Compliance, alone, does not capture the full extent of the impact of international obligations on state behaviour since attempts to comply with the adverse ruling might fail to appease the complainant, yet still result in domestic policy change. In Young's case selection, it is not necessary that the policy change following an adverse ruling be recognized by the complainant or a panel as sufficient, generating a larger and more precise set of potential cases. While focusing on second order compliance narrows the scope of a broad research

question, considering all types of policy change as a potential response to ‘inconvenient obligations’ ensures that any potential impact that can be attributed to adverse rulings are brought within the empirical scope of this analysis.

Young presents three competing explanations of how adverse rulings lead to domestic policy change. All these explanations involve a reconfiguration of domestic politics – either changing the preferences of existing actors or bringing new actors into a policy debate. A ‘demand-side’ explanation claims that compliance is the result of societal pressure. Young rebukes this conventional explanation which suggests that exporters lobby for compliance with adverse rulings out of fear that non-compliance might lead to enforcement tariffs, which in turn might hurt their own exports. Two ‘supply-side’ explanations, which Young corroborates in the empirical chapters of this book, counter the demand-side explanation by first suggesting that ‘policy makers have preferences that are shaped independently from societal demands’ (Chapter 1, p. 8). These ‘independent’ preferences may be motivated by reputational concerns, the need to instill reciprocity with negotiating partners, or an innate belief in the legitimacy of international institutions and their regulations. Reputation and reciprocity are expected to be particularly relevant to trade regulators as these two factors are key in achieving their own mandate, i.e. trade facilitation. Insomuch as policy change can help achieve the objective of greater trade facilitation, Young expects trade regulators to push for a solution that achieves compliance with WTO rulings. A second way an adverse ruling can impact the ‘supply side’ of the policy process is through actor expansion. An adverse ruling can bring in officials that had previously not been involved with a specific issue and who might have other priorities. The more actors with varying policy preferences get involved, the less likely it is that policy change will come about.

From a theoretical perspective, the book explains policy change better than its absence. Young does not create any counterbalancing hypotheses on the demand side to explain non-compliance. He does not take into account societal actors that might mobilize to lobby *against* compliance, or differently put: he does not theorize an expansion of actors on the demand side to pressure the (newly) engaged policy makers against policy change. Young discards the mobilization of both importers and societal actors concerned about non-trade issues because, even though compliance with adverse rulings may suit or run counter to their preferences, these preferences did not change *as a result of* adverse decisions in the WTO (p. 7; p. 147). Both actors prefer the status quo regardless of whether they are WTO compliant. Exporters, on the other hand, experience a change in their preferences because they are no longer indifferent to WTO compliance, fearing negative consequences.

The presentation of the alternative, demand-side hypothesis in chapter 2 is very succinct, and even seems to truncate the existing demand-side explanation to emphasize the value of the new supply-side argument. It glosses over how WTO decisions are said to be employed as a strategic tool by national leaders to circumvent domestic pressures, wielding potential retaliation as a weapon against exporters, not sheltering from their demands (Goldstein and Steinberg, 2008). Fundamental to this counter-argument is how adverse decisions are used as rhetorical devices that provoke both movements towards compliance and political backlash (De Ville, 2012). Had these details been taken into account, Young may have been able to theorize how an event like an adverse panel or appellate body ruling also alters the political opportunity structures on the demand side even though underlying preferences do not change. In this way, his contribution could build on other arguments in the field: that sectoral pressure of affected industries is expected to increase in response to adverse rulings and lead to delays in compliance (Spilker, 2012); and that the demand-side explanation has also broadened to include mobilization for and against policy change by importers integrated in global value chains (Yildirim et al., 2018).

Building on this theoretical framework, Young teases out a set of conditions which could be categorized as sufficient or necessary for observed policy change. He operationalizes the three

non-rival explanations for all 23 cases where the EU received an adverse WTO ruling. First, societal pressure from exporters is conceptualized as the power of the trading partner. This is operationalized as the share of EU exports to the complainant(s) since the threat of retaliation is more pronounced when it can target large trade volumes. Second, since Young argues that trade officials are more likely to be concerned about WTO compliance, he classifies whether or not an offending policy is a trade policy, i.e. a measure adopted under Art 133 TFEU. If so, it is taken as an indication that policy change may have been a result of changing preferences among trade regulators concerned with WTO compliance. Finally, expansion of actors is operationalized as the number of veto players proscribed by the EU decision rules governing the amendment of the offending policy. Young codes a high number of veto players if at least a qualified majority of the member states is required to adopt a decision, and low if decision rules require less than that.

Young finds through his QCA that neither power of the complainant nor the amount of veto players are sufficient or necessary conditions to induce policy change following adverse rulings. The size of the trading partner was negatively correlated with policy change, while the number of veto players had no clear association with policy change. Only for the second condition, policy field, does Young find evidence that it is 'a sufficient condition for both prompt and sufficient policy change' (Chapter 3, p. 56). The QCA thus corroborates the supply-side explanation, challenges the demand-side explanation, and suggests that the expansion of actors has an ambiguous effect on policy change. In this QCA, Young is also able to identify most and least likely cases for testing the supply-side explanation for policy change, which are analysed in the subsequent five chapters on: Beef, Bananas, Genetically Modified Crops, Sugar, and Bed Linen (Chapters 4–8).

Young examines these cases in the following chapters through process tracing. He relies empirically on a set of interviews conducted with representatives of the European Commission and business associations between December 2000 and June 2011. By speaking directly with regulators and lobbyists, he uncovers in striking detail a short list of policy alternatives which were being considered for all cases. Most importantly, this approach enables him to interpret policy outcomes in light of his theoretical framework since interviewees' explanations of their decisions are a testimony to their motivations. As such, he is in a very good position to assess whether regulators were primarily motivated by concerns for reputation, reciprocity, or the legitimacy of the WTO. By including responses from business associations and peak associations, he is also able to assess the extent to which exporters' fear of retaliation motivated societal pressure for policy change leading to compliance.

Each of the case studies succeed in undermining the main demand-side hypothesis, namely that policy change occurs because exporters lobby out of fear of retaliatory tariffs. There were a few cases where societal actors got involved, specifically in the case on the ban on hormone treated beef and in the case on the approval of the sales of GMOs. However, in the former case there were only calls to 'resolve the conflict' (p. 78) rather than calls for policy change. In the latter case feed processors and livestock farmers were more motivated to call for a change in policy because of concerns over animal feed supply, rather than out of fear for retaliatory tariffs (p. 122). In short, there is an empirical absence of exporter mobilization, and the practice of applying enforcement tariffs is actually quite rare (p. 29). This strengthens Young's conclusion that exporters do not mobilize out of fear of getting caught by enforcement tariffs even though this is what is emphasized in the literature.

Young does find significant evidence to corroborate his supply-side explanations. First, as was already shown in chapter 3: when trade policies were found to be WTO-inconsistent, the EU changed its policies promptly and sufficiently. The process tracing chapters reaffirm this finding, showing that adverse rulings caused trade policy officials to change their policy preferences and ensure compliance with the ruling. The case studies also show that when a different policy field was concerned, trade officials became engaged in the policy process, pushing for compliance even if non-trade officials did not change their preference as a result of the ruling. Invariably, this

resulted in a dynamic where the non-trade policies remained with the original policy officials, and compliance was sought while simultaneously maintaining the original, challenged, policy goal. Second, Young did not find significant evidence that the amount of veto players systematically made compliance more difficult to achieve. If anything, he finds that it matters much less than would be expected, and only in two of the seven cases did the number of veto-players actually impact the outcome. These were the Bananas case and the decision governing GMO marketing approvals.

The empirical richness of the process-tracing chapters and the systematic way in which Young tests his hypotheses allow this book to do what it set out to do. It provides a compelling supply-side explanation of how and when WTO DSM rulings impact domestic policies and demonstrates the weakness of demand-side explanations focused on exporter mobilization. From time to time, Young moves up the ladder of abstraction to elevate his findings beyond what was asked or demonstrated. He claims that his findings demonstrate the importance of ‘efficient breach’ in balancing the legitimacy and effectiveness of the WTO. But the effect on either legitimacy or effectiveness is difficult to substantiate based on expert rationalizations of their decisions alone. He weighs in on a horse race between rational choice against constructivist explanations. But no serious effort was made to create expectations based on the constructivist theory before making a thin operationalization, and so these pages are a rather adversarial distraction from the book’s principal achievements. The same adversarial tendency is alive in Young’s caricatural depiction of demand-side explanations. Instead of writing off the nuances of these explanations in the straw man of exporter demands, Young could have interacted with these middle-ground theorists to formulate grand findings as avenues for future research. None of these criticisms takes away from the fact that Young’s work marks an important contribution to the field, perhaps because he makes his point about the impact of regulators’ preferences on policy change so forcefully. Sure, we are unconvinced by the extent to which the demand-side explanations falter, as well as whether these findings prove constructivism is inferior to rational choice. But as far as the middle ground goes, we remain fascinated by the depth of empirical inquiry and thoroughly impressed by Young’s ability to comment on both what *happened* and *could have happened*.

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