contentious in others, and necessarily oversimplified. For example, Bahamas and Bahrain are listed next to each other with the same comment 'Independence from UK'—which is somewhat misleading, as is clear from the passages in the book referring to Bahrain (pp 291–2, 321).

Many will turn to Crawford's book for insight or information on a particular State, putative State, or topic. That is easily done. The book serves well as a work of reference, and will at the least be an essential starting point for any investigation. The Contents, Table of Cases, Table of Treaties and Other Instruments, Appendices, Bibliography and Index are very full, and have been prepared with great care. All are of the highest quality, and add greatly to the work's utility for practitioner and student alike. But the book is more than a research tool. The reader who only looks up what is of particular interest on a specific occasion will miss a good deal. This is a coherent *tour de force*, that goes back to first principles; the first three chapters in particular deserve to be read through in full by anyone coming new to the book. It is a work, all too rare these days, which gives some optimism for the future of international law.

This book stands alone in its field. It will be the first point of reference for anyone seeking information or enlightenment on how States have come into being, how they change, and how—sometimes—they disappear. It is an essential (and reasonably priced) purchase for all international law and international relations libraries.

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doi: 10.1093/iclq/lei142

*International Governance in the WTO: Judicial Boundaries and Political Capitulation* By TOMER BROUDE [Cameron May London 2004 ISBN 1–87–469–8791 352pp £125 (h/bk)]

This book deals with institutional governance from the point of view of political science. The general question it addresses is the judicialization of international relations. The specific topic is the functioning of the dispute settlement mechanism in the WTO.

The author develops a theory of relative judicial power to analyse the relations between the judicial and the legislative organs of the WTO, that is to say, the Panels and the Appellate Body on one side and the Membership on the other. Relative judicial power is defined as the power of the judicial organ inside an international organization in relation to the power of its legislative branch.

This study invalidates the two main currents of thought regarding the dispute settlement mechanism of the WTO. The first criticizes it for assuming legislative powers and calls for a reduction or elimination of the judicial power of the organization. The second hails it as a model for international judicial institutions, one that could entail greater legalization of the international system.

According to Broude, both the critic and the laudatory discourses start from the same assumption, namely that the dispute settlement is, by its institutional design, a relatively strong power inside the WTO. Both resort to what the author calls the constitutional narrative of judicialization. In other words, they see international judicialization through the lenses of domestic political structures. Therefore, they esteem that international institutions should follow a system of separation of powers, which are kept within the limits of their competences by a structure of checks and balances, in the lines of the traditional State theory.

The author proceeds to an analytical and comparative study in order to show that this assumption is false. On the one hand, he evaluates the relative power of the dispute settlement mechanism inside the organization in relation to the legislative power of the Membership. On the other hand, he compares the relative position of the WTO judiciary with that of other international judiciaries within their own systems, viz the International Court of Justice and the European Court of Justice. He concludes that the WTO judiciary is relatively weak in both aspects. It is subjected to judicial boundaries imposed by the Membership through the international legal agreements that constitute the organization.

Nevertheless, the dispute settlement mechanism acquired a prominent position since the WTO succeeded the former GATT on 15 April 1994. After a general comment on the difficulty of

implementing plans as they were designed, Broude analyses the specific case of the WTO, inquiring why the power has shifted from the Membership to the judiciary.

The core of Broude's analysis is that the Membership has voluntarily waived a share of its political powers and invested the dispute settlement system with them. This was caused by a series of political frictions inside the organization, which can be assembled in five groups: (i) national sovereignty against international authority; (ii) trade values against non-trade values; (iii) developed countries against developing countries; (iv) non-governmental policy actors against traditional state-centred government; and (v) judicial against political decision-making in the WTO. This last one is particularly important, because it shows the conflict between the diplomatic conception inherited from the former GATT and the legalization brought by the WTO agreements, which institute a standing judiciary with compulsory jurisdiction. This last friction is connected to all the others, because those issues are ultimately resolved by the dispute settlement system, submitted to political pressures. It is the conflict between political and judicial power that has enhanced the relative power of the dispute settlement mechanism.

This transfer of power from the political to the judicial instance, the author argues, occurred by the will of the Members of the WTO. In fact, the Membership, which is in charge of law-making, is hemmed by the consensus system, and thus unable to deal with the tensions mentioned above. Complex issues with political consequences can hardly be resolved unanimously by the representatives of 148 States, but can be settled by a small group of specialists gathered in Panels or in the Appellate Body. Moreover, the dispute settlement instances are relatively preserved from external political pressure by the institutional structure of the organization, in which the judiciary is bounded to the political organs.

This transfer of normative function to the dispute settlement mechanisms is called 'political capitulation'. It does not happen, therefore, because of judicial ambition, as some critics will have it, but because of the will of the Membership. The Members have the power to make some decisions by majority but usually neglect to use it, because they favour consensus rule-making. By avoiding a decision, they practically invite the dispute settlement to happen, since the path laid out by the agreements points to dispute settlement when political negotiation fails.

Broude states that the reasons for the political capitulation (ie why Members prefer to transfer normative capacity to the judiciary) are numerous. The most important are: (i) the political cost to governments of a consensus decision, in which they must necessarily renounce to some of their claims; (ii) the reduced transaction cost of judicial decision-making, in terms of personnel, time and money invested in the negotiation; (iii) the predominance of short-term interests, that can be more easily satisfied through judicial decision; and (iv) the legitimation of the decision for domestic political ends, since the outcome of judicial decisions can be more easily justified at home for it demands less political compromise.

The author then proposes an alternate dialectical description of judicialization, in which the powers inside the international organization are more interdependent and their competences shared. Thus, the Membership has political control over the judiciary, but it voluntarily waives a part of its legislative power to it. The structure of the WTO, he argues, favours the shift of law-making capacities to the dispute settlement system, which becomes responsible for the political issues. In this new light, this phenomenon is not seen as a malfunctioning, but rather as a corollary of the type of institutional governance existing in the WTO. It is a conscious choice of the Members that enables the organization to operate circumventing significant political pressures.

As a conclusion, the author opposes the proposals of dejudicialization of the WTO and supports a move towards more politicization of the rule-making process to make it more effective. Some suggestions are to adopt majority decision under certain conditions and to establish smaller law-making groups with specific competences. These conclusions lead to another more general one about global governance. The present state of affairs in the WTO, where the judicial organ shares the normative function, can be an intermediate phase in the evolution of the international system, which would eventually shift to political rule-making processes.

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doi: 10.1093/iclq/lei143