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Book Review

Book Review: The Social Construction of Free Trade - The European Union, NAFTA, and Mercosur

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Duina, Francesco (2006):

The Social Construction of Free Trade – The European Union, NAFTA, and Mercosur
Princeton University Press, Princeton, 249 pp, ISBN 0-691-12353-5, US\$ 35.–

When on July 24, 2006 PASCAL LAMY, in his capacity as chairman of the Trade Negotiations Committee of the Doha Development Round, announced a temporary suspension of multilateral trade negotiations, many commentators and experts predicted a shift from multilateral to regional and bilateral trade negotiations. They were in little doubt that many trade ministers would become even more active in pursuing Regional Trade Agreements (RTAs). RTAs are probably more *en vogue* than ever before and the publication of FRANCESCO DUINA's book on this subject comes at a most auspicious time.

But what exactly can we learn from "The Social Construction of Free Trade – The European Union, NAFTA, and Mercosur"? While economists have researched the trade and welfare effects of RTAs, lawyers have delved into the legal provisions of RTAs, and political scientists have looked into the emerging institutions of RTAs, until recently trade agreements have rarely been a research subject for sociologists. Thus, the book of FRANCESCO DUINA – an Associate Professor of Sociology at Bates College – is a novel attempt to explore the social construction of RTAs and to explain major differences among them. With his research he intends to answer the following two questions: How have RTA officials responded to the subtle, but crucial challenge of standardisation for market participants? How have societal organisations adapted to regional integration? Referring to the first question the author claims that "officials have created remarkably different cognitive guidebooks to reality. Some RTAs boast thick guidebooks, others thinner ones. When we open those guidebooks, we discover differences in the nature of the notions being produced" (p. 51). Regarding the second question he argues that "organisational fields vary dramatically across RTAs. Which interest groups, businesses, and state administrative units develop regional programs and statements varies from one RTA to the next, as does the specific nature of those programs and structures" (p. 55). To support his claims, DUINA has completed extensive empirical research, focusing on the European Union (EU), the North American Free Trade Agreement (NAFTA), and the Mercado Común del Sur (Mercosur).

In his first empirical chapter the author examines the legal provisions of the RTAs and tries to ascertain to what degree trade officials have standardised the economic environment in these three regions. He carried out meticulous research of these trade agreements and associated regional laws and calculated the overall number of differential and normative notions in the areas of economic life, environment, and public health. Overall, he found that EU officials have produced 18 times more norms, and Mercosur officials 32 times more norms, than NAFTA officials. According to DUINA the reasons for this difference may lie in the fact that the NAFTA member countries are used to leaving standardisation processes to institutions of the civil society or international organisations and beyond this rely on dispute settlement procedures. The pre-existence of extensive codified legal systems made such an approach inappropriate for EU and Mercosur member countries. Therefore, the author concludes that officials tend to replicate at the regional level the principles found at the national level and argues that the legal system of the member countries – common law or civil law – was the major causal factor of regional law. Unfortunately, DUINA does not elaborate on the fact that on the one hand Mexico with its civil law system and on the other hand Great Britain and Ireland with their common law systems are inconsistent with this hypothesis and gives no answer on

how these countries accommodated to the emerging and different regional law. Moreover, the author does not consider whether the desire to create common markets in the EU and the Mercosur, rather than free trade areas, has influenced the nature and content of the emergent regional law. This omission is even more intriguing given the fact that the author is aware of it but only mentions it in a side note in his concluding chapter.

Not all three RTAs are of the same level of standardisation, but how similar are the targets and contents of these regional laws? In his second empirical chapter the author tries to answer this question by applying a political-institutional approach and by analysing the legal provisions regulating women in the workplace, the dairy industry, and labor rights. DUINA provides extensive evidence showing that the EU has produced a far-reaching regulatory framework for women in the workplace while the level of regulation in the Mercosur and NAFTA member countries remains modest. The major reason for this difference can be found in the significant lobbying efforts of the well-developed and coordinated European interest groups and the lack of such pressure on the officials in the case of Mercosur and NAFTA. In the dairy sector it is the Mercosur that provides the industry with the most comprehensive regulations. The author argues that the timid approach in the EU and NAFTA is, above all, rooted in the protective national legislation and powerful administrative units defending locally-produced dairy products. The biggest variation can be observed in the regulation of labor rights where the driving forces in these three regions have been very different and, therefore, produced diverse national regulations. Here, DUINA's political-institutional approach produces very convincing arguments. The author concludes that the content and targets of regional law is most easily understood in the light of pre-existing legal and power arrangements in the member countries.

In his third and last empirical chapter FRANCESCO DUINA explores how societal organisations – such as interest groups, businesses, and state administrative units – have responded to the emergence of regional law. The evidence provided in this chapter is strongly related to the one in the second chapter, and again he focuses on the emergence of regional women groups, dairy companies, and administrative units responsible for the workforce. Women's lobby groups were responsible for variance within the regional laws and these regional laws had also a reciprocal effect on these interest groups. Organisations, such as the European Women's Lobby (EWL) and the European Woman Lawyers Association (EWLA), amongst others, were formed in response to EU law on women and, therefore, live in close symbiotic relationship with the latter. Similarly rich systems of regional law, argues the author, could have possibly provided the stimulus for equally strong regional organisations in the Mercosur and the NAFTA. The legislation regulating the dairy industry in the Mercosur member countries had an important effect on the structure of this industry. Before 1990 the activities of all the dairy companies have been limited to their home country. By 2001, eight out of the ten most important dairy companies have established factories in other Mercosur member countries. In contrast, the transnational activity of dairy companies is still very much the exception in the EU and the NAFTA. The different labor legislation produced a wide variety of administrative units within the EU, Mercosur, and NAFTA, nevertheless they typically serve only to promote coordination among the administrative units on the national level. DUINA concludes this chapter with the insight that RTAs affect not only abstract law but also practical reality. RTAs are giving rise to regional societies: real-life spaces where people conduct their everyday lives.

FRANCESCO DUINA concludes his book with a few reflections on the impact of his research on important questions concerning globalisation, regional market building, and neoliberalism. Referring to the discussion on globalisation he concludes that there is no movement towards a single global economic system nor are nation states the sole remaining building blocks of society; instead a rise of distinctive regional markets has been witnessed. Thus, with the emergence of RTAs the world is experiencing the pull of now three competing forces: the global, the regional, and the national. Referring to regional market building he concludes that these markets do not emerge solely out of the human desire to trade but are influenced by institutional and political imperatives. With regards to the manifestation of neoliberalism – which he apparently sees as the major driving force behind the emergence of these three RTAs – the author states that there is considerable variance. Neoliberalism is, therefore, not a uniform ideology but manifests itself differently throughout different regions.

As any book review this one should end with praise and criticism. A major cause of irritation lies in the author's unwillingness to give a clear definition of his primary research subject – RTAs. In the introductory chapter DUINA refers to the hundreds of RTAs that have been notified to the WTO and the reader may be inclined to consider any free trade agreement notified to the WTO under article XXIV of the GATT agreement as a RTA in the sense that DUINA is defining it. But throughout the text DUINA gives definitions which clearly deviate from this first impression: "RTAs constitute efforts to establish single economic spaces across a selected number of member states. RTAs are thus neither national nor global: they are regional" (p. 13); "RTAs [...] envision the creation of a marketplace comprising participants who, until that point in time, have largely operated in distinct cultural traditions" (p. 49); "RTAs are stable and enduring entities: coupling market activity with legislative and organisational structures, they bring together countries with fairly similar histories, as well as complementary economic needs and outlooks" (p. 198). The author also provides an inadequate explanation of the selection of the EU, Mercosur, and NAFTA as samples for his empirical research: "these are some of the most important and best functioning integration projects in the world. They are at the same time representatives of RTAs in general" (p. 58). The readers may comfort themselves considering that RTAs are comprehensive market integration initiatives. Unfortunately, the author eventually frustrates the reader again by asking whether his methodical approach "presented in this book can be applied to ten or twenty RTAs" (p. 203). Despite these difficulties, FRANCESCO DUINA provided us with formidable empirical research about the political and institutional factors contributing to the formation of regional law and the subsequent adjustment of societal actors within the EU, Mercosur, and NAFTA. The lessons of this book are certainly useful for any observer of current international trade negotiations, who not only wonders about the economic effects of RTAs but is also interested in the consequences of such agreements for civil society. Furthermore, this advance into a new research field was indeed a courageous undertaking and will likely provoke many further questions and research.

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