World Trade Law after Neoliberalism

Re-imagining the Global Economic Order

ANDREW LANG

OXFORD UNIVERITY PRESS
# Contents

List of Abbreviations xiii  
Tables of Treaties and Official Documents of International Organizations xvi  
Tables of Cases xxv  

1. Introduction 1  
   - Argument 1: Understanding the neoliberal turn 3  
   - Argument 2: Renewing the politics of collective purpose 7  
   - The structure of the book 11  

I. REGIME ENCOUNTERS: TRADE AND HUMAN RIGHTS  

2. ‘Trade and Human Rights’ in Historical Perspective 23  
   - I. The first decades: ‘mutual isolation’ and its deeper foundations 24  
   - II. The development challenge and the beginnings of regime conflict 42  
   - III. Neoliberal resurgence 52  
   - IV. Conclusion 57  

3. The Global Justice Movement 61  
   - I. Mobilization against free trade in the 1980s and 1990s 61  
   - II. Human rights in the global justice movement 81  

4. Inter-Regime Contestation 104  
   - I. International human rights institutions’ engagements with trade 104  
   - II. The discursive framework of ‘coherence’ 123  
   - III. Conclusion 129  

5. The Limits of Coherence 132  
   - I. Coherence and its consequences 132  
   - II. Strategies of inter-regime integration 137  
   - III. Conclusion to Part I 154  

II. THE TRADE REGIME AND THE NEOLIBERAL TURN  

6. Against Objectivism 159  
   - I. The objectivist fallacy 161  
   - II. Avoiding subjectivism and idealism 177  
   - III. Conclusion 185
7. Embedded Liberalism and Purposive Law 190
   I. The nature and purpose of the post-war trade regime 190
   II. Approaches to domestic regulation in the GATT’s early decades 205

8. Neoliberalism and the Formal-Technical Turn 221
   I. The expanding scope of application of GATT/WTO disciplines on domestic regulation 223
   II. The formalization and technicalization of GATT/WTO disciplines on domestic regulation 240
   III. The changing jurisprudence on domestic regulation, 1980–2000 253
   IV. Conclusion: a new legal imagination 271

9. Trade in Services 273
   I. An open-ended agreement 274
   II. Telecommunications 284
   III. Financial services 290
   IV. Catalogues 300
   V. Conclusion to Part II 307

III. CONCLUSION

10. Conclusion: After Neoliberalism? 313
    I. Crisis of legitimacy in a post-neoliberal era 313
    II. New developments in GATT disciplines on domestic regulation 317
    III. Post-positivism and proceduralization under the SPS Agreement 330
    IV. Post-neoliberalism and the re-moralization of international trade law 343

Select Bibliography 355
Index 381