

Breaking Gridlock: How Path Dependent Layering Enhances Resilience in Global Trade Governance

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Abstract

What are the implications of the proliferating preferential trade agreements (PTAs) for the liberal trade order? Many scholars and practitioners see large increases in PTAs as a destabilizing factor that undermines core features of the post-war international trade system. By contrast, this paper argues that the accelerated growth of PTAs since the mid-1990s enhances the resilience of the liberal trade order. PTAs increase the ability of the order to accommodate heterogeneous preferences and distributive conflicts. They represent a continuation of a longer path of liberalization set in motion by the General Agreement on Tariffs and Trade (GATT). This path-dependent development created conditions for a gradual expansion of the membership and the regulatory scope of the GATT/WTO system, but also heightened levels of preference heterogeneity and distributive conflicts. By enabling groups of states with homogenous preferences to layer new rules on top of the multilateral GATT/WTO system, PTAs enable the continuation of the liberalization path. Consequently, PTAs have served as complements rather than to undermine the WTO.

Policy Implications

- Layering offers a promising way to break gridlock in major international institutions. Especially given high levels of preference heterogeneity in a globalized world, decision-makers should realize its potential to put in place workable governance solutions in the absence of consensus.
- Layering gives rise to or expands regime complexes. Within regime complexes, the key task for practitioners is to invoke suitable governance techniques such as orchestration and deference to work towards mutual complementarity between layered international institutions. Inter-institutional complementarity needs to be deliberately created by decision-makers that work to coordinate the governance efforts of separately established international institutions.
- Within the regime complex for international trade, decision-makers should work towards balancing the desire to enable high levels of economic interdependence with the recognition that economic and political models around the world are highly diverse.
- Decision-makers working on 'mega-regional' trade agreements should work towards maximizing the complementarity of the rules those agreements establish with existing WTO rules.

How the rise of preferential trading agreements transforms global trade governance

With 272 of the 302 preferential trading agreements (PTAs) currently in force adopted after 1995 (Baccini, 2019), the proliferation of PTAs is described as 'the main change to the international trading system since the mid-1990s' (Baccini and Dür, 2015, p. 617).¹ It has transformed global trade governance from a centralized regime into a decentralized regime complex. Prominent trade economists worry that the proliferation of PTAs weakens the liberal trade order by inducing economic fragmentation (Hoeckman and Sabel, 2019; Schwab, 2011). Jagdish Bhagwati (2008, xii) vividly summarized these worries in describing PTAs as 'termites (...) eating away at the multilateral system relentlessly and progressively'. Other trade economists, by contrast, see PTAs

as stepping stones for multilateral liberalization (Cottier et al., 2015; Panagariya, 1999).

Not only PTAs, but international institutions in general have proliferated over the past decades (Pevehouse et al., 2019). The debate about the consequences of PTAs for global trade governance among trade economists therefore mirrors a broader debate among scholars of international institutions who inquire into whether the proliferation of international institutions enhances or impedes inter-state cooperation (Alter and Raustiala, 2018; Faude and Gehring, 2017; Orsini et al., 2013). Two arguments contend within this debate. One holds that institutional proliferation gradually weakens international commitments and undermines the effectiveness of global governance arrangements by letting states pursue their parochial interests through forum-shopping (Benvenisti and Downs, 2007; Drezner, 2013; Hale et al.,

2013b). Institutional proliferation is conceived of as 'dysfunctional fragmentation, reducing the ability of multilateral institutions to provide public goods' (Hale et al., 2013b, p. 228). From this perspective, regime complexes 'impede effective cooperation instead of facilitating it' (Hale et al., 2013a, p. 16). A second perspective emphasizes the potential of regime complexes to self-organize in the absence of a central authority (Gehring and Faude, 2013; Kim, 2019). It suggests that the proliferation of international institutions gives rise to various processes of inter-institutional adaptation, orchestration, and deference that states exploit to fashion institutionalized cooperation resilient (Abbott et al., 2015; Gehring and Faude, 2014; Pratt, 2018). Authors subscribing to this line of reasoning emphasize that regime complexes do 'not necessarily imply chaos, anarchy, or disorder' but may feature 'structural coherence' (Kim, 2019, p. 12).

This paper connects the literature on PTAs to broader theoretical debates in IPE and IR. In contrast to the worries of prominent trade economists and scholars of international institutions, it argues that the proliferation of PTAs is part of the path-dependent evolution of the post-Second World War liberal trade order and enhances its resilience. This path-dependent process has endogenously produced distributive conflicts that have increased preference heterogeneity among governments. By implication, it has become increasingly more difficult for states to come to agreement on multilateral cooperative solutions. As a result, 'legislative gridlock' characterizes the WTO today (Collier, 2006; Narlikar, 2010a, 2010b). The proliferation of PTAs, however, increases the ability of the liberal trade order to accommodate heterogeneous preferences and distributive conflicts. PTAs provide a work-around that help overcome 'legislative gridlock' in the WTO by allowing groups of states with comparatively homogenous preferences to pursue cooperative projects that go beyond what is acceptable to the entire membership. They enable states to forge cooperative arrangement without reforming the WTO by adding a layer of new rules. In doing so, PTAs enhance the resilience of the liberal trade order, understood as its adaptability to a changing environment.² In short, the proliferating PTAs enable the continuation of a path of progressive liberalization that originated with the creation of the General Agreement on Tariffs and Trade (GATT). The broader implication for global policy is that institutional proliferation offers a way to move beyond gridlock as long as the resulting regime complexes feature inter-institutional coordination (cf. Hale et al., 2013b).

This theoretical contribution complements the rich and detailed empirical literature on the proliferation of PTAs (Baccini, 2019; Dür et al., 2014; Dür and Elsig, 2015). This literature found that PTAs are carefully adapted to work with and to expand multilateral WTO rules (Allee et al., 2017; Kim and Manger, 2017). At the same time, it has yet to put these findings in a larger theoretical context. As Morin and Gomez-Mera (2019) observe, little theoretical attention has been paid on how the interactions between the WTO and PTAs affect the evolution of the liberal trade order. As a result, they encourage trade analysts to 'take the temporal

dimension more seriously when it comes to studying trade institutions' (Morin and Gomez-Mera, 2019, p. 20). Taking up this plea, the present paper develops a historical institutionalist argument which captures the systemic implications of the spreading PTAs for the liberal trade order. In doing so, it provides a theoretical lens to contextualize and explain the empirical findings.

The paper proceeds in four sections. The next section develops a historical institutionalist approach to the study of continuous change in the liberal trade order. Section 3 analyzes the dynamic development of the liberal trade order and the reasons behind its gradual shift from a centralized regime to a decentralized regime complex. Section 4 details how a gradual process of change has served to enhance the resilience of the liberal trade order. The concluding section discusses the implications of the paper for the debate about the future of international trade system and global governance at large.

Explaining the resilience of the liberal trade order

A historical institutionalist approach provides the analytical tools to explain why its path-dependent development has led the international trade system to become more decentralized with time and why this process has enhanced its resilience. It suggests that the adoption of the GATT in 1947 has triggered an endogenous process of 'self-reinforcing interdependence' (Hale et al., 2013b, p. 224). Within this process, increasing levels of transnational interdependence have given rise to growing levels of institutionalization which, in turn, have set in motion even higher levels of transnational interdependence.

The process of 'self-reinforcing interdependence' is driven by two micro-level mechanisms that feature extensively in historical institutional accounts of institutional change: *increasing returns* and *network effects*. Increasing returns refer to 'a steady increase in returns relative to once-feasible alternatives' for actors that profit from an existing structure (Fioretos, 2011, p. 377; Pierson, 2000). This micro-level mechanism captures a process in which 'the more a choice is made or an action is taken, the greater the benefit' for the stakeholders (Page, 2006, p. 88). Thus, increasing returns imply that 'preceding steps in a particular direction induce further movement in the same direction' (Pierson, 2000, p. 252). A historical institutionalist perspective therefore suggests that increasing returns drive the expansion of GATT's regulatory scope since stakeholders have come to recognize that further benefits may be reaped by removing remaining barriers to trade. More precisely, it conjectures that successful liberalization through the GATT framework makes export-oriented sectors increasingly aware that a further reduction of trade barriers entails additional benefits, including more returns from greater specialization and reductions in transaction costs (Bailey et al., 1997). In short, liberalization creates 'demands for further liberalization' (Barton et al., 2006, p. 16). By strengthening the export-oriented parts of economies, fueling growth in multinational firms and transnational supply chains, and by stimulating investments in

technologies that facilitate cross-border production, increasing returns alter the political landscape by empowering export-oriented sectors and weaken protectionist forces (Baldwin, 2006).

Network effects are present when the marginal utility of joining a group increases with the total number of participating actors (North, 1990; Pierson, 2000). Since export-oriented sectors in member countries can reap greater benefits from the liberal trade order as the number of member states grows, a historical institutionalist account suggests that network effects drive the increasing membership of GATT/WTO. An increasing membership means larger international markets, which in turn strengthen the prospects for export-oriented sectors to take advantage of the liberal trade order.

However, while individual member-states enjoy increasing returns from membership in a club, expanding membership and regulatory scope also increase the prospect that preference heterogeneity will grow among members. Domestic regulatory systems are diverse and domestic groups differentially affected. Thus, governments vary greatly with respect to their preferred international rules on 'behind-the-border issues' (Farrell and Newman, 2010). The harmonization of domestic regulatory systems entails sunk costs that make it more difficult with time to transform governance structures.

Inherent in the logic of 'self-reinforcing interdependence' is a gradual shift in rule-making from 'at-the-border issues' to 'behind-the-border issues', or from abolishing tariffs ('negative integration') to making domestic regulatory systems compatible with each other ('positive integration') (Hoekman, 2014). Since this shift has introduced greater preference heterogeneity, the distributional consequences of trade liberalization have grown over time (Elsig, 2015). Thus, while network effects create preference *homogeneity* in the sense that members and non-members alike have an incentive to increase the size of the market, the expansion of the regulatory scope to 'behind-the-border issues' introduces preference *heterogeneity* with regard to the content of the rules governing international markets (Farrell and Newman, 2010). The expansion of the liberal trade order to include more diverse economies with different levels of development, state-market relationships, and regulatory systems, also contributes to enhanced levels of preference heterogeneity among states.

In sum, the shift from 'at-the-border issues' to 'behind-the-border issues' makes a continuation of the path of progressive liberalization within the WTO system more difficult (Collier, 2006; Narlikar, 2010a, 2010b). PTAs have therefore emerged as a way of mitigating, or working around, the problems of preference heterogeneity within the WTO system. A historical institutionalist perspective suggests that they represent a sort of layering in which difficulties in reforming existing structures induces members to add new institutions to the existing ones. Layering 'does not introduce wholly new institutions or rules, but rather involves amendments, revisions, or additions to existing ones' (Mahoney and Thelen, 2010, p. 16). It is a common strategy by

actors that are interested in institutional change, but face 'legislative gridlock' (Thelen, 2003).

Layering takes place when dissatisfied actors lack the capacity to change a focal institution *and* to explicitly set up an alternative institutional framework. It takes advantage of the fact that those who prevent changes to an existing institution lack the capacity to prevent the creation of new rules outside of it (Mahoney and Thelen, 2010, p. 17). Actors that layer new rules on top of a focal institution 'accommodate and in many ways adapt to the logic of the preexisting system' (Thelen, 2003, p. 226). Layering thus enables dissatisfied states to work around the institutional status quo by adding new rules, rather than by dismantling the GATT/WTO system. It is used by actors who 'work within the existing system by adding new rules on top of or alongside old ones' (Mahoney and Thelen, 2010, p. 17). Layering is 'politically attractive' because it 'reduces opposition by those who would confront larger losses if major reforms were implemented instead' (Fioretos, 2011, pp. 389–390). It implies that PTAs are conditioned by the prevailing WTO rules, because '[a]ctors that enjoy positive returns from extant designs tend to incorporate new institutions and policies in ways that are compatible with the existing structure so as not to disturb the functioning of institutions that are the source of tangible benefits' (Fioretos, 2011, p. 378). Layering therefore sustains the path-dependent process of progressive liberalization that started with the conclusion of the GATT in 1947 and that follows the logic of 'self-reinforcing interdependence'.

This historical institutionalist account of the dynamic development of the post-Second World War liberal trade order features an important similarity with the 'gridlock thesis' (Hale et al., 2013b). It subscribes to the notion that 'self-reinforcing interdependence' has produced 'second-order cooperation problems' which are difficult to resolve within the WTO. More importantly, however, it diverges from the conclusion that the governance of global trade is gridlocked. For Thomas Hale and his co-authors, the fact that the GATT/WTO system is not able to solve 'second-order cooperation problems' implies a complete breakdown of cooperation in this issue-area (Hale et al., 2013a, pp. 154–162). The present paper, by contrast, suggests that, by layering new rules on top of the multilateral GATT/WTO system, states have enabled the continuation of the liberalization path, the gridlocked WTO notwithstanding. In other words, states have successfully worked around the gridlocked WTO by establishing a plethora of PTAs.

Thus, rather than leading global trade governance to gridlock, 'self-reinforcing interdependence' has led to a transformation of global trade governance from a centralized regime to a decentralized regime complex (cf. Hale et al., 2013b). Since this process of institutional change enables the continuation of the path of progressive liberalization within a more decentralized institutional structure, path-dependent layering through PTAs enhances the resilience of the liberal trade order. Institutional change on the meso-level has brought the institutional underpinnings of the liberal trade order in line with changing social, political and

economic conditions. In doing so, it has facilitated resilience on the macro-level (cf. Thelen, 2003, p. 211).

Given the large number of institutions regulating international trade, this issue-area is a rich field for researching regime complexes (Davis, 2009, p. 29). Thus, the historical institutionalist line of reasoning developed in this paper may well be transferable to other issue-areas. In one of his seminal contributions to historical-institutionalist scholarship, Paul Pierson (2004, p. 27) holds that '[p]ath dependent processes will often be most powerful not at the level of individual organizations but at a more macro level that involves complementary configurations of organizations and institutions'. It is therefore not surprising that, in their seminal article on regime complexes, Raustiala and Victor (2004) draw on path dependence to account for the emergence of the regime complex for plant genetic resources. More precisely, they argue that 'the array of rules already in force channel and constrain the content of new elemental regimes' (Raustiala and Victor, 2004, p. 280). On a general level, Raustiala and Victor hold that regime complexes 'evolve against a thick backdrop of existing rules' and are thus subject to distinctive dynamics (Raustiala and Victor, 2004, p. 306). Surprisingly, however, this paper presents the first systematic attempt to develop a path-dependent account of how a centralized regime transformed into a decentralized regime complex.

From Geneva to Doha: towards a regime complex for international trade

On 30 October 1947, 23 contracting parties signed the GATT as a temporary measure. Because of the failure to establish the International Trade Organization (ITO), the 'temporary' GATT initiative emerged as the only piece of a formal international agreement around which trade relations could be organized.

Compared to the failed ITO, the GATT incorporated a smaller and more coherent set of countries and concentrated on a narrow and comparatively uncontroversial part of global trade governance, namely reductions on tariffs in manufactured goods. The core goal of the GATT was to put in place a non-discriminatory trading system that departed from the pre-Second World War system of discriminatory trading blocs. However, the turn away from preferential liberalization remained incomplete. Article XXIV of the GATT facilitates the continuation of preferential trade systems as long as three conditions are fulfilled: first, PTAs need to cover substantially all trade; second, they need to abolish duties and other regulations on internal trade between members; third, they are not allowed to raise the general incidence of duties against third countries. The intention behind Article XXIV was to regulate deviations from GATT's 'cornerstone' of non-discrimination through preferential liberalization.

The question of how to design Article XXIV figured among the most contentious issues in the discussions on the post-Second World War liberal trade order (Irwin et al., 2008). It represents a compromise between the pure non-

discriminatory approach promoted by the US and the British position more in favor of preferential liberalization to preserve the system of imperial preferences put in place at the Ottawa Imperial Economic Conference in 1932 (Winters, 2017). This compromise constrained and channelled the evolution of the liberal trade order in the decades that followed. From a historical institutionalist perspective, it set the stage for a path-dependent process which induced multilateral liberalization within the GATT/WTO system and preferential liberalization through the addition of PTAs.

Between 1947 and 1995, the membership and the regulatory scope of the multilateral trading system expanded significantly. By the late 1960s, the number of 'contracting parties' had tripled, and by the early 1970s it had quadrupled (Jupille et al., 2013). A large part of the new 'contracting parties' was (newly independent) developing countries from South Asia, Latin America and Africa (Finlayson and Zacher, 1981). From the mid-1960s onward, developing countries represented over 70% of the GATT states (Jupille et al., 2013).

GATT's regulatory scope also expanded over time. The first six negotiation rounds between 1947 and 1967 were used to significantly reduce the level of tariff barriers to trade. At the end of the Kennedy Round, tariff barriers were at 'historical lows' (Goldstein and Gulotty, 2017, p. 205). The Kennedy Round is therefore seen as the turning point from 'negative integration' to 'positive integration'. Since 'positive integration' generated adaptation costs on the domestic level, this turning point exposed the distributional consequences of global trade governance (Elsig, 2015, pp. 74–76).

The Uruguay Round (1986–1994) further expanded membership to 123 countries and accelerated the shift from tariffs to non-tariff barriers to trade. In parallel, however, PTAs started to layer new rules on top of GATT rules. After the US adopted PTAs with Israel, Canada and Mexico during the 1980s, their proliferation increased in the early 1990s in reaction to the European Single Market Programme (1992) and accelerated to unprecedented levels after 1994 (Baccini, 2019; Dür and Elsig, 2015).

The failure to launch a new round of trade negotiations at the Ministerial Conference 1999 in Seattle demonstrated for the first time the difficulty of coming to agreement within the newly established WTO. In 2001, the first round of multilateral trade negotiations organized by the WTO – the so-called Doha Development Round – began and included 142 countries. It eventually grew to a membership of 164 countries.³ A decade later it became apparent that the Doha round was at an impasse. WTO members declined to reaffirm the Doha mandate in December 2015 at the Ministerial Conference in Nairobi in reaction to a controversy surrounding India's domestic food security programme. At the December 2017 Ministerial Conference, it was the first time in over a dozen years that participants failed to produce a joint declaration.

As the historical institutionalist account suggests, the gridlock in the Doha Development Round is caused not by technical, but by political differences (Hufbauer and Cimino, 2013). It reflects the difficulty of reaching an agreement on

a large number of topics among a large number of states with heterogeneous preferences. The current gridlock in the WTO is therefore inherent in the path-dependent logic of 'self-reinforcing interdependence'. The global membership of the WTO implies that it accommodates not only the established trading powers from the 'Global North', but also rising economies from the 'Global South'. To reflect the global shift in economic power, Brazil and India replaced Canada and Japan at the core decision-making forum of the WTO negotiations, the Quad. Having Brazil and India at the heart of decision-making represents a very different arrangement than one that features Canada and Japan (Narlikar, 2010a, 2010b). Among other things, it represents a stronger contrast between 'statist models of capitalist development' in the former countries and the 'liberal capitalist models' prevalent in the latter (Stephen, 2014). It also raises the prospects of continued differences over how to break an impasse in global trade liberalization within the WTO.

Topics negotiated during the Doha Round such as competition and investment policies, public procurement and trade facilitation, as well as labor standards are all 'deep trade issues' that create significant adjustment costs within national economies. Such costs vary across economic sectors. By implication, they give rise to distributional conflicts within and across states. As a result, agreements on ambitious agendas of trade liberalization become more difficult (Kahler, 2013). Put differently, regulatory rule-making becomes feasible only among those WTO members that are able to agree on common rules without creating prohibitively high adaptation costs within their domestic societies. Thus, only sub-sets of the WTO membership with relatively homogenous preferences are able to agree on regulatory rules. As a result, regulatory rule-making is possible only within PTAs (Hoeckman and Mavroidis, 2015). One follow-on consequence has been that rule-making in international trade matters has shifted from the global to the regional and to the bilateral levels (Elsig et al., 2017). The governance gaps that emerged as a result of the gridlock in the Doha Development Round are being closed by PTAs, albeit incompletely (Kim et al., 2016).⁴ In sum, the layering of PTAs on top of those rules that are institutionalized in the WTO is endogenous to the path-dependent development of global trade governance, as suggested by the historical institutionalist account.

The gradual filling of gaps in global trade governance led multilateral companies involved in global supply chains to have greater interest in regulatory rules for the global economy. These were thought to reduce non-tariff barriers to trade and allow multinational companies to reap higher benefits by exploiting the advantages that different production locations offer. Within the WTO, however, their demand for regulatory rules could not be met. Preference heterogeneity among members was great (see Baccini and Dür, 2015; Kim et al., 2016), and states therefore responded by increasingly adopting PTAs to meet the demands for regulatory rule-making among multinational companies (Hoeckman and Mavroidis, 2015). Richard Baldwin (2016, p. 95) succinctly summarizes this development when noting that

'WTO members have massively lowered barriers to trade, investment, and services bilaterally, regionally, and unilaterally – indeed, everywhere except through the WTO'. In other words, '[m]uch of the trade liberalization that we have seen in the past 20 years is preferential rather than unilateral or multilateral' (Baccini, 2019, p. 2). As a result, it is incomplete to conceive of global trade governance as gridlocked (cf. Hale et al., 2013 a, 2013b).

The proliferation of PTAs has the potential to affect the fundamentals of the liberal trade order. Since PTAs discriminate between insiders and outsiders, they are seen by some authors as institutional competitors to the WTO which 'might further weaken prospects in the longer term for multilateral trade cooperation' (Hale et al., 2013a, p. 161) and cause a 'fracturing of global trade into competing blocs' (Bown, 2017, p. 107; see also Winters, 2017). Trade economists worry that the proliferating PTAs lead to economic fragmentation and, by implication, to a slowing growth of global trade (Kim et al., 2016). There is, however, no empirical evidence that such an effect has occurred (Baldwin, 2016; Elsig et al., 2017). To the contrary, empirical research finds that 'average levels of protection have continued to fall throughout the post-1995 period' (Elsig et al., 2017, p. 22) and that PTAs had a positive impact on trade flows (Dür et al., 2014). These developments reflect the strong and widespread 'presence' of the WTO in PTAs (Allee et al., 2017, see also Kim and Manger, 2017).

PTAs refer to the WTO in their key provisions (Elsig et al., 2017). Their adjustment to existing WTO rules allows states to realize 'greater openness' than is achievable in 'WTO negotiations which are conducted by a large number of states with heterogeneous interests' (Mansfield and Milner, 2015). The GATT/WTO system, however, has paved the way to 'deeper integration' initiatives that are easier to pursue through PTAs and therefore remains relevant despite the proliferating PTAs (Hoeckman and Mavroidis, 2015). Through their proliferation, PTAs have transformed global trade governance from a centralized regime into a decentralized regime complex. As the next section details, PTAs complement rather than undermine the GATT/WTO system. By enhancing the ability of the liberal trade order to accommodate heterogeneous preferences and distributive conflicts, they enhance its resilience.

Layering and resilience in the liberal trade order

The preceding section has demonstrated that contemporary global trade governance is dominated by two related phenomena: gridlock in rule-making at the WTO level and the accelerated proliferation of PTAs. Indeed, PTAs 'have dominated the international trade regulation landscape for the past 15 years' and became the 'most prominent and important governance instrument of our times for regulating trade and investment flows' (Dür and Elsig, 2015, pp. 1, 19). Practitioners and scholars worry that the proliferation of PTAs signals a weakening of the liberal trade order and foreshadows a return to a more fragmented trading system (Bhagwati, 2013; Winters, 2017; WTO, 2011).

The worries of trade economists rely on the 'building blocks or stumbling blocks' approach to the effects of PTAs for the liberal trade order (see Panagariya, 1999; Winters, 2017). This approach rests on two assumptions: first, PTAs are exclusively about preferential tariffs; second, there is a trade-off between preferential and multilateral tariff liberalization. These assumptions do not apply to the PTAs that have been established after the creation of the WTO. As the preceding section has established, contemporary PTAs are primarily about 'rule writing', not about 'tariff cutting'. Their rules focus on 'behind-the-border' or 'deep trade issues' and build upon the rules agreed upon within the GATT/WTO system (Baldwin, 2011; Kim et al., 2016).

As the historical institutionalist account suggests, the proliferation of PTAs represents a process of institutional adaptation to the internationalization of production processes the GATT/WTO system has enabled since 1947 (WTO, 2011). Since the expansion of its regulatory scope allowed firms to differentiate their production processes, intra-industry trade in intermediate products constitutes a significant part of contemporary world trade (see Hoeckman, 2014). By formulating rules that 'address regulatory causes of market segmentation' and 'reduce the cost-raising effects of domestic politics' (Hoeckman, 2014), contemporary PTAs reinforce existing 'global production networks' and the trade flows they generate (Kim et al., 2016, p. 331). Substantively, they go beyond what has been and can be agreed upon within the WTO (see Allee et al., 2017; Kim et al., 2016). The proliferating PTAs therefore reflect that more complex forms of economic exchange require deeper agreements (Baldwin, 2011, pp. 4–5). Since the preferences within its global membership are heterogeneous and the distributive conflicts numerous, deep agreements are politically not feasible within the WTO.

The institutional development towards a regime complex for international trade follows a path-dependent logic. That is, WTO rules constrain and channel the rules that are adopted within the proliferating PTAs (Allee et al., 2017; Kim and Manger, 2017). Actors design PTAs in ways that are compatible with the WTO to be able to reap the benefits from both multilateral *and* preferential liberalization. This process of inter-institutional adaptation ensures that the PTAs do not undermine the multilateral process of liberalization that economic actors are profiting from. It results in a 'loose coupling' between the WTO and the proliferating PTAs that ultimately contributes to making the liberal trade order resilient.

Inter-institutional adaptation between the WTO and the PTAs is visible, first, in the explicit references that contemporary PTAs make to WTO commitments, and, second, in the direct incorporation of language from WTO agreements. The average PTA makes roughly 25 references to WTO-related rules and most sub-chapters in nearly all contemporary PTAs invoke WTO agreements (Allee et al., 2017). These references not only signify 'compatibility and consistency with the WTO' (Allee et al., 2017, p. 335), they even make sure that the regulatory rules institutionalized within PTAs 'reinforce and further strengthen rules embodied within existing WTO

agreements' (Kim et al., 2016, p. 331). This means that preferential and multilateral liberalization are not two distinct avenues to regulate international trade, but have become deeply intertwined (Cottier et al., 2015). In other words, the adaptation of PTAs to the WTO guarantees that preferential liberalization does not turn global trade governance into exclusive economic blocs, but into a loosely coupled regime complex that accommodates diverse, but mutually complementary institutions for managing international trade.

As the historical institutionalist account expects, the layering of PTAs on top of the GATT/WTO system gives rise to an 'interdependent web of an institutional matrix' (North, 1990, p. 95). By increasing its ability to accommodate preference heterogeneity and distributive conflicts, this web produces 'institutional network effects' that enhance the resilience of the liberal trade order (cf. Zürn, 2016, p. 207). To preserve inter-institutional adaptation may, however, be a costly process (Abbott et al., 2015; Pratt, 2018). Within this institutional arrangement, PTAs continue the path of progressive liberalization set in motion by the GATT in 1947. They enable cooperative solutions to distributive conflicts by reducing the heterogeneity of preferences. In doing so, PTAs counter the drift of the WTO which, because of legislative gridlock, is not capable of continuing the path of progressive liberalization. Given the preference heterogeneity in the membership and the distributive conflicts attached to regulatory rule-making within the WTO system, progressive liberalization through encompassing multilateral treaties administered by the WTO is politically not feasible.

At the same time, for three reasons, the development towards a decentralized regime complex for international trade is only the second-best solution for continuing the path of progressive liberalization. First, it weakens the WTO's cornerstone principle of non-discrimination. Second, compared to an encompassing multilateral treaty system administered by the WTO, PTAs increase the transaction cost of international trade for all actors involved. Third, effective global trade governance through a decentralized regime complex presupposes continuous inter-institutional adaptation and coordination among the GATT/WTO pillar and the proliferating PTAs in order to prevent the PTAs from undermining the WTO and inducing economic fragmentation.

The proliferation of PTAs shifts governance authority away from the WTO. However, the shift of governance authority to PTAs varies strongly across governance functions. Legislative gridlock within the WTO implies a strong shift of rule-making authority from the WTO to PTAs. At the same time, the WTO continues to competently monitor the trade policies of its members and to offer technical assistance and capacity building (Elsig et al., 2017; Karlas and Parizek, 2019). With regard to rule enforcement through dispute settlement, the situation is more ambiguous. Since the US is blocking all nominees to the panel, the WTO Appellate Body is paralyzed at the moment. With currently only one active member remaining, the Appellate Body is not operable and it remains to be seen whether it can be restored. In another instance of layering, the EU and 16 other WTO members have therefore decided earlier this year to work around the

paralyzed Appellate Body by using another appeals and arbitration system according to Article 25 of the WTO Dispute Settlement Understanding.⁵ In sum, the shift of governance authority away from the WTO is weaker in regards to the monitoring and enforcement of trade rules. The proliferating PTAs therefore displace the WTO only partially.

All in all, the proliferation of PTAs enhances the resilience of the liberal trade order. It facilitates the adaptation of global trade governance to a higher level of preference heterogeneity and an increased number of distributive conflicts. Heterogeneous preferences and distributive conflicts imply that the demand for regulatory rule-making, created by the path-dependent development of global trade governance since the end of the Second World War, could not be met in the absence of PTAs. Because the commitments states enter into through PTAs are adjusted to their WTO commitments, they do not fragment the global economy.

An alternative scenario in which PTAs contradict WTO rules and thereby fragment the global economy, as feared by prominent trade economists, is not supported empirically (Bhagwati, 2008; Winters, 2017). The adaption of PTAs to the WTO also contrasts with Daniel Drezner's (2013) claim that the proliferation of PTAs should have led to the erosion of regulatory coherence in global trade governance and, thus, to the undermining of the mechanisms that foster trade liberalization and institutionalized cooperation. According to Drezner, states should have used the forum-shopping opportunities they gain through the proliferation of PTAs and subsequently defect from WTO rules (Drezner, 2013). From this perspective, the institutional proliferation in global trade governance should have led to the gradual undermining of the liberal trade order and the return of power-based trade. However, this trend is not observed empirically. Instead, states have sought to maintain the WTO, while signing a growing number of PTA to promote trade liberalization. This pattern is consistent with historical institutionalist accounts of institutional development which stress the role that increasing returns to institutions play in strengthening established institutions and the role network effects play in enhancing commitments to incremental adjustments to existing rules. Taken together, they combine to create a resilient international trade system. Despite the gridlocked WTO, it is therefore not accurate to describe global trade governance altogether as gridlocked (cf. Hale et al., 2013). States have managed to work around the gridlocked WTO through layering PTAs on top of the WTO rules and thereby fashioned the liberal trade order resilient.

Conclusions

This paper connects the empirical literature on the proliferating PTAs with broader theoretical debates in IPE and IR. It integrates the accelerated proliferation of PTAs in recent decades into an overarching institutional path that started with the adoption of the GATT in 1947. The paper thereby avoids seeing proximate factors (such as gridlock in the Doha Development Round) as the source of the proliferation of PTAs which is, in fact, caused by longer-term

developments (heightened levels of preference heterogeneity and distributive conflicts). It shows that the development from a centralized regime towards a decentralized regime complex is part of the path-dependent evolution of the post-Second World War liberal trade order which is driven by the logic of 'self-reinforcing interdependence' (Hale et al., 2013b). The paper explains how, for insiders and outsiders alike, the liberal trade order became more attractive, how its increasing attractiveness rendered the institutional underpinning of the order more complex, and how the layering of new rules on top of those existing within the GATT/WTO system enhanced the resilience of the order by increasing its ability to accommodate heterogeneous preferences and distributional conflicts. Contrary to the worries of prominent trade economists and institutionalist scholars of international relations, the proliferation of PTAs neither reflects nor brings about the weakening or collapse of the liberal trade order. It rather constitutes a process of inter-institutional adaptation to changing social, political and economic conditions which results in a regime complex for international trade consisting of mutually complementary parts.

The argument put forward in this paper has direct implications for the current debate about the consequences of the ongoing trade conflicts for the WTO and the international trade system. It implies that, because of diverging economic and political models, the preference heterogeneity between the US and China may be too great to allow for deep regulatory cooperation between the two states and, consequentially, on the global level (Rodrik et al., 2019). More generally, the preference heterogeneity among the 164 WTO members may make any encompassing agreement that is acceptable to all of them highly unlikely. Actors should therefore work to further increase the ability of the international trade system to accommodate members with diverse economic and political systems (cf. Keohane and Victor, 2011 on global climate governance).

In recent years, major economies around the world have shifted their efforts to put in place deep regulatory rules from the global level to 'mega-regional' agreements with like-minded partners. To be sure, in some cases, it turned out to be difficult to generate sufficient societal and political support for regulatory cooperation through 'mega-regionals' due to high levels of preference heterogeneity and distributive conflicts. However, the 'mega-regional' approach is in line with the argument put forward in this article, because 'mega-regionals' essentially aim at further increasing the ability of the system to accommodate heterogeneous preferences and distributional conflicts against the backdrop of a gridlocked WTO. They are therefore part of the transformation of the institutional underpinnings of the liberal trade order from a centralized regime to a decentralized regime complex.

Importantly, the argument put forward in this article implies that neither the ongoing trade disputes between major economies nor the shift to 'mega-regionals' are likely to undermine the liberal trade order. Rather, it suggests that the logic of 'self-reinforcing interdependence' has created vested interests in the liberal trade order which make a significant reduction of economic interdependence or even a

'decoupling' of major economies politically unsustainable, the current backlash against globalization notwithstanding. The challenge for decision-makers is therefore to continue building a regime complex for international trade which balances the desire to enable high levels of economic interdependence with the recognition that economic and political models around the world are highly diverse.

This paper suggests that regime complexes are suitable institutional vehicles for governing the globe in the 21st century. They are more adept at absorbing changes in state preferences than are strong multilateral organizations where preference heterogeneity is a liability. Regime complexes therefore increase the flexibility of global governance by facilitating institutional change in the absence of consensus within major institutions. They make it easier for states to coordinate international action when these have diverse preferences than systems that rely exclusively on strong multilateral organizations. Thus, regime complexes hold the potential to facilitate the reorganization of other parts of global governance which are equally characterized by increased preference heterogeneity among states. In other words, regime complexes offer a general pathway to overcome gridlock in major international institutions.

The key task for practitioners is to invoke suitable governance techniques such as orchestration and deference to work towards mutual complementarity between international (economic) institutions (Abbott et al., 2015; Pratt, 2018). Notwithstanding their potential to make institutionalized cooperation among states resilient in the face of challenges, regime complexes are in the first instance characterized by overlapping claims to authority that are not necessarily mutually complementary. Thus, the risk that states engage in uncoordinated and potentially incompatible joint action in different institutions is inherent in any regime complex. Inter-institutional complementarity therefore needs to be deliberately established by decision-makers that work to coordinate the governance efforts of separately established international institutions. Only if inter-institutional coordination is successfully established, are regime complexes able to stabilize institutionalized cooperation in a changing world. The present paper demonstrates that inter-institutional complementarity has been achieved in the regime complex for international trade. Whether this is the case also in other parts of global (economic) governance is an empirical question that future research should explore.

Notes

Considerable parts of this research have been carried out at the WZB Berlin Social Science Center. I thank the WZB and the director of its global governance unit, Michael Zürn, for their support. Previous versions of this paper were presented at several workshops and conferences. For helpful comments, I am particularly indebted to Kenneth W. Abbott, Tobias Berger, Eugenia da Conceicao-Heldt, Alejandro Esguerra, Orfeo Fioretos, Nicole Helmerich, Anne Koch, Michal Parizek, Matthew Stephen, Alexandros Tokhi and Bernhard Zangl.

1. PTAs are defined as agreements that liberalize trade between two or more countries but do not extend this liberalization to all countries.

2. The concept of resilience has originally been used by biologists to study the ability of populations or species to survive in the face of adversity and by psychologists to study the ability of people to cope with stressful situations. More recently, political scientists have used the concept to study various governance systems (Folke, 2006).
3. Since the beginning of the Uruguay Round, 70 developing countries have joined the multilateral trading system, about half of them after the creation of the WTO (Baldwin, 2016).
4. In 1994, 47 PTAs were in effect, in 2000 already 93, and in 2013 their number had risen to 260 (Aggarwal and Evenett, 2013).
5. <https://www.bloomberg.com/news/articles/2020-01-24/eu-china-15-others-form-alliance-to-settle-trade-disputes>, accessed on 26 February 2020.

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