

Toward an Identity Theory of International Organizations

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I. Introduction

Conventional international relations (IR) theorists, such as realists, neo-functionalists or regime theorists, view international organizations (IOs) as passive tools with which to achieve certain goals. Although an IO may facilitate inter-state cooperation and reduce transaction costs, it does not have a life of its own.¹ Therefore, conventional IR theorists focus mostly on the *creation* of an IO and inter-state cooperation leading up to the creation. As a result, an IO's institutional *change* remains rather an “under-studied” and “under-theorized” issue in the conventional international relations (IR) framework.²

Granted, conventional IR theories may provide useful insights on an *inter-national* dynamic among creators (states) of an IO. Many scholars have attempted to explain, and justify, such a dynamic through varying theoretical lenses, such as neo-realism and neo-liberalism. Nonetheless, they seldom offer a satisfactory explanation on an institutional dynamic under which an IO, as a separate and autonomous organic entity, grows, evolves and eventually makes sense of its own existence. By focusing on an IO's autonomy, we can expect to capture the dynamic operation, or evolution, of a specific IO *qua* organization, predict its future trajectory and even launch various reform agenda through an identification of specific conditions under which specific IOs can perform effectively in specific stages of their institutional development.³

Therefore, this paradigm shift in perceiving an IO from a passive, inorganic tool to an autonomous, organic entity provides us with a theoretical foundation under which we can delve into a unique and case-specific institutional development of an IO. We often label, classify and identify some international organizations as a “trade” organization and some others as an “environmental” organization. Then, what makes a certain organization a trade organization, and some other an environmental organization? Among other things, the “purpose” of an organization tends to determine its identity. A trade organization is so named because it pursues free trade, and an environmental organization is so labeled because it aims for environmental protection.

Yet, the formation of an IO's purpose, and thus identity, is not a static event. Like a human individual, such a formation is subject to a certain developmental process over a period of time. In developmental psychology, a person's identity is formed (“identity formation”) after it suffers from a certain crisis (“identity crisis”). As one grows old, she experiences an ever-broadening horizon in her surroundings and face her “historical moments” in which she agonizes over what she lives for and what she should become.

¹ Ness & Brechin, 246; Harold K. Jacobson et al., National Entanglements and International Government Organizations, 80 Am. Pol. Sci. Rev. 141-59 (1986).

² Helfer 655

³ See Ness & Brechin, 271

Only after such an identity crisis can her true identity be formed and the purpose of her life established.

This identity theory in developmental psychology enlightens the institutional development of an IO. As it evolves, it interacts with its environment, and continuously defines and redefines its institutional *raison d'être*. In this process, the organization often undergoes a daunting situation under which an old structure has become increasingly incapable of coping with new challenges from the new environment. Confronting this crisis, it may reconfigure its institutional setting by adjusting its teleology to the new environment. Only then can its institutional existence continue to hold relevance, and its genuine institutional identity be formed.

Against this background, this Article attempts to hypothesize an IO's institutional development *qua* organization from the standpoint of identity formation. The Article also tests the hypothesis by applying it to the World Trade Organization (WTO). Part II first discusses a theoretical foundation of the whole analysis, i.e., the autonomy of an IO. An IO's identity cannot be constructed without autonomy from its members (states). The Part adopts the views of organizational sociology, which focuses on autonomy of organizations, unlike the conventional IR theorists who regards IOs as a mere tool of states.

Part III then constructs a theory of identity formation of IOs. The Part first delineates various parameters of identity formation, such as history, the environment, goals and technology. It then observes that the process of identity formation is a normative one which is operated by rules and legal discourse. Part IV applies this theory of identity formation to the WTO. The Part demonstrates how the GATT's old identification with a narrow meaning of trade embraced new external challenges on non-trade values, such as protection of the environment and human health. It argues that the WTO's identity formation is to strike an institutional equilibrium between traditional trade values and these non-trade values. Part V concludes.

II. The Origin of Identity of International Organizations: *Autonomy* of International Organizations

A. Two Theoretical Perspectives on International Organizations

1. International Organizations as Inorganic Entities: Empty Shells

Conventional international relations (IR) theorists, such as realists or regime theorists, regard IOs as mere passive machinery, or "empty shells," of interstate cooperation; from a functionalist standpoint, these theorists view that sovereign states

create and operate IOs for a better world system by “enmeshing” them in mutually beneficial economic transactions.⁴ As Robert Keohane aptly observed, this “rationalistic” approach only highlights IOs’ functional merits, such as reducing uncertainty and transaction costs, in the absence of any specific institutional context.⁵ Neo-liberals, though they recognize that IOs can change states’ behaviors, still do not accord IOs autonomy.⁶ Lawrence Helfer aptly observed that:

“[F]or most scholars, the story of IOs ends where it ought to begin – with their founding. What these institutions do once they have been created remains under-examined and under-theorized.”⁷

While “identify[ing] hypotheses about IO change” may be inferred from a conventional theoretical baggage centering on why and how states create IOs,⁸ those hypotheses nonetheless remain unsatisfactory since an institutional *change* itself tends to be at odds with conventional IR theories. Change is either “assumed away”⁹ or thrust upon IOs by their creators, i.e., states, in accordance with changes in national interests or state preferences.¹⁰ Therefore, change is nothing but a *re-creation* of IOs due to asymmetrical external shocks, such as disasters,¹¹ rather than an evolution or adaptation due to continuous, incremental institutional development. From this perspective, to study how IOs work and change is basically to understand international cooperation among states.¹²

2. International Organizations as Organic Entities: A Life of Their Own

The abovementioned inorganic approach to IOs by conventional IR theorists leaves little room for organizational autonomy-cum-identity since it basically views IOs as static instruments for states’ collective purposes. They are nothing but nuts and bolts, and nuts and bolts have no special names. Accordingly, “few have noted that organizations differ over time, or that they perform differently from one another, or that they achieve their ends with varying effectiveness or efficiency.”¹³

⁴ Ness & Brechin, 246; Harold K. Jacobson et al., National Entanglements and International Government Organizations, 80 Am. Pol. Sci. Rev. 141-59 (1986).

⁵ Robert O. Keohane, International Institutions: Two Approaches, 32 Int’l Stud. Q. 379, 390 (1988).

⁶ Barnett & Finnemore, 704-05.

⁷ Helfer, 658

⁸ Helfer,

⁹ Helfer, 661; Ira Katznelson & Barry R. Weingast, Intersections between Historical and Rational Choice Institutionalism, in Preferences and Situations: Points of Intersection between Historical and Rational Choice Institutionalism 1, 7 (Ira Katznelson & Barry R. Weingast eds., 2005).

¹⁰ Helfer, 661

¹¹ Id., at 662.

¹² See Robert O. Keohane, International Institutions: Two Approaches, 32 Int’l Stud. Q. 379, 379 (1988).

¹³ Ness & Brechin, 247

In contrast, sociological approaches enable a theoretical emancipation of IOs from their creators (states). IOs are “live collectivities” interrelating with the environment.¹⁴ According to the Weberian bureaucracy theory and sociological institutionalist approaches, the “rational-legal” authority which the bureaucracy of IOs generates endogenously claims an independent status separate from their actors (states).¹⁵ Here, bureaucracy is defined as an internal mechanism of IOs which creates norms and social knowledge.¹⁶ These approaches focus on the “social content” of the organization, i.e., “its culture, its legitimacy concerns, dominant norms that govern behavior and shape interests, and the relationship of these to a larger normative and cultural environment.”¹⁷

Yet, IOs’ autonomy gains more theoretical salience in the “natural” system perspective than the Weberian “rational” system perspective. While Weber highlights the rational-legal authority of bureaucracy, this authority is still instrumental in that it is “blue-printed” to achieve rationally pre-deliberated and pre-programmed goals.¹⁸ In contrast, the “natural” system perspective views an organization, beyond mere tools to attain pre-determined goals, as “social groups attempting to adapt and survive in their particular circumstances.”¹⁹ Therefore, organizations are capable of modifying their original goals to survive in the changing environment. They become “ends in themselves.”²⁰

Philip Selznick’s “institutional” approach perfects this theory of organizational autonomy. Institutionalization distinguishes organizations from a mere cybernetic machinery which passively channels states’ inputs. Selznick defines institutionalization as “the emergence of orderly, stable, socially integrating patterns out of unstable, loosely organized, or narrowly technical activities.”²¹ Through the process of institutionalization, an organization obtains both special capacity and character,²² and establishes its value.²³

Those who argue for IO’s autonomy debunk the conventional view that IOs are a mere passive machinery of states from an empirical standpoint.²⁴ They adduce empirical confirmations for an independent bureaucracy in IOs (such as “eurocrats” in the European Union)²⁵ or an independent organizational culture and agenda-setting (such as the World Bank).²⁶

¹⁴ Ness & Brechin, 247

¹⁵ Barnett & Finnemore, 699

¹⁶ Id. Bureaucracy, broader than the secretariat; criticism often directed to the bureaucracy

¹⁷ Barnett & Finnemore, 706

¹⁸ Scott 53; Gouldner (1959: 404-05)

¹⁹ Scott 57

²⁰ Id.

²¹ Broom & Selznick, 1955:238

²² Selznick 1996

²³ Selznick 1957, 17

²⁴ Barnett & Finnemore, 705

²⁵ Pollack 1997

²⁶ Wade 1996

B. A Case for Organizational Autonomy

1. Legal Personality

Public international law confirms and manifests IOs' organizational autonomy through the lens of their legal personality.²⁷ IOs can be a legal subject of rights and obligations under their own legal capacity, independently from their members (states). By holding legal personality, an IO claims "a life apart from the will of the individual states which formed the membership of the organization."²⁸

Article 104 of the United Nations Charter stipulates that "the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes."²⁹ Article 8:1 of the WTO Agreement also provides that "the WTO shall have legal personality, and shall be accorded by each of its Members such legal capacity as may be necessary for the exercise of its functions."³⁰ The International Court of Justice (ICJ) even ruled in the *Reparation* case that an IO holds the capacity to sue a state, regardless of its membership to the organization, for damage caused by a violation by the state of its obligation toward the organization.³¹ The International Law Commission (ILC) is also working to create a draft governing legal responsibility for damage which an IO may cause to states or other IOs.³²

Public international law also recognizes the unique identity of each IO by accentuating its distinctive functional mandate or competence. For example, the ICJ rejected the World Health Organization (WHO)'s request to the court to deliver an advisory opinion as to whether states' use of nuclear weapons violate international law on the ground that such issue did not fall within the rubric of the WHO's activities.³³ This decision insinuates a distinguishable mission of each IO which tends to justify organizational autonomy and identity.

2. Evaluation

²⁷ But see Giuseppe Marchegiano, *The Juristic Character of the International Commission of the Cape Spartel Lighthouse*, 25 *Am. J. Int'l L.* 339, 339 (1931) (finding the notion of international personalities as debatable).

²⁸ David J. Bederman, *The Souls of International Organizations: Legal Personality and the Lighthouse at Cape Spartel*, 36 *Va. J. Int'l L.* 275, 277 (1995-1996).

²⁹ UN Charter, art. 104

³⁰ WTO Charter, art. VIII:1.

³¹ *Reparation for Injuries Suffered in the Service of the United Nations* [1949] ICJ Rep 174, at 179, available at <http://www.icj-cij.org/icjwww/idecisions/isummaries/iisunsummary490411.htm>.

³² ILC, http://untreaty.un.org/ilc/guide/9_11.htm.

³³ *The Legality of the Threat or Use of Nuclear Weapons in Armed Conflict*, 1 ICJ Rep. 226 [1996].

Under the classical realism and its logical corollary, instrumental functionalism, which is represented by David Mitrany, an international organization is a mere tool of sovereign countries and thus quite dependent on the sovereign will. As mere instruments, like nuts and bolts, realists largely fail to pay attention to the unique characteristics that are deeply associated with each organization's autonomy and identity. Therefore, they tend to treat even effective IOs the same as "those that are near moribund."³⁴ To them, nuts are nuts and bolts bolts; some are not superior to others.

However, sociology opens a theoretical possibility with which to study an organization *qua* organization, not merely as an instrument of its creators, i.e., governments. Under this sociological paradigm, an organization may have a life of its own beyond its creators' original intent and expand its teleological horizon.³⁵ Focusing on the autonomy of an individual organization means taking "variance" among IOs seriously, including variance in their performance (such as effectiveness or efficiency) as well as variables influencing such performance (such as environments).³⁶ In particular, the "environmental changes produced changes in organizational structure and behavior."³⁷

Admittedly, the "regime" theory, an adaptation from realism, also focuses on "specific" institutions in which states routinely cooperate over certain issues in order to reduce uncertainty and transaction costs, provide information, and stabilize expectations, even in the absence of "hierarchical authority."³⁸ Critically, however, this sector-specific regime still remains a cooperative relationship among sovereign states – no matter how strong their cooperation may be – not an independent organization.³⁹ As a corollary, the regime theory fails to address two important organizational issues. First, it cannot fully explain an organic interaction between IOs and the environment. Second, it cannot evaluate whether each regime is legitimate and/or effective *qua* organization since all the performance of the regime is logically attributable to states.

In fact, the notion of organizational autonomy parallels the way in which people perceive IOs. While people may criticize the WTO for its various deficiencies as an organization, they seldom criticize its members, especially big ones, such as the United States and the European Union for those deficiencies. This is why organizational autonomy may offer a deeper theoretical underpinning for a constitutional analysis of IOs than positivistic framework which the regime theory provides.

III. The Theory of Identity Formation in International Organizations

³⁴ Ness & Brechin, 247

³⁵ Ness & Brechin, 246-47

³⁶ Ness & Brechin, 248

³⁷ Ness & Brechin, 254

³⁸ Keohane, 386

³⁹ Cite!

A. Toward an Identity-Oriented Approach to International Organizations

1. The Identity Theory in Developmental Psychology

A pre-eminent developmental psychologist, Erik Erikson, suggests that a human being develops her (ego) identity by combining her understanding of the environment (group identity) and her own personal characters (personal identity).⁴⁰ In other words, a person's identity is "constituted by a configuration of central traits ... that typically make a systematic difference to the course of a person's life, to the habit-forming and action-guiding social categories in which she is placed, to the way that she acts, reacts, and interacts."⁴¹

Erikson's theory of identity-formation focuses on the resolution of certain "crises" that occur in each stage of development, which signify certain "conflicts" between "identification" with the environment (such as parents and peers) and emancipation therefrom.⁴² A child is "deeply and exclusively 'identified' with his parents."⁴³ Yet, adolescents "are sometimes morbidly, often curiously, preoccupied with what they appear to be in the eyes of others."⁴⁴ Erikson depicted the estrangement of this process as "identity confusion."⁴⁵ The final identity, although it includes all significant identifications with key figures of the past, also processes them in a way which builds a unique yet still coherent whole.⁴⁶ Yet, during the final stage of identity formation, adolescents tend to suffer greatly from role confusion.⁴⁷ Past multiple identifications, and the roles which they prescribe, often conflict with each other. This disturbance is tantamount to a crisis or "a war within themselves."⁴⁸ Only after adolescents weather this *Strum und Drang* do they acquire a sense of "knowing where [they are] going."⁴⁹

However, some adolescents fail to undergo this identity crisis and demonstrate a pathological symptom, i.e., "a loss of center and a dispersion," which is characterized as "identity diffusion."⁵⁰ According to Marcia, identity diffusion arises when adolescents make no commitments, or show no fidelity, to their identity as they experience no

⁴⁰ Erik H. Erikson, *Identity, Youth and Crisis* (1968). See also Willem L. Wardekker, *Identity, Plurality, and Education*, *Philosophy of Education* (1995)

⁴¹ A.O. Rorty & D. Wong, *Aspects of Identity and Agency*, in *Identity, Character, and Morality: Essays in Moral Psychology* 19 (O. Flanagan & A.O. Rorty ed. 1990).

⁴² G. Emerson Dickman, *Adopted Child Status, Identity, and Behavior*

⁴³ Erikson (1968: 115)

⁴⁴ *Id.*, at 128.

⁴⁵ *Id.*, at 131.

⁴⁶ *Id.*, at 161; Dickman

⁴⁷ *Id.*, at 163-64.

⁴⁸ *Id.*, at 17.

⁴⁹ *Id.*, at 165.

⁵⁰ *Id.*, at 212.

identity crisis.⁵¹ Other problematic identity statuses are “foreclosure,” in which adolescents have already made commitments to a certain identity without exploring various identities, and “moratorium,” in which adolescents merely engage in such exploration without making any commitments.⁵²

2. Applying the Identity Theory to International Organizations

The *organic* images of organizations to which natural system theorists subscribe tend to justify cross-fertilization between human science, such as medical biology and psychology, and organizational sociology. Like a human body, an organization pursues a homeostatic equilibrium.⁵³ Such equilibrium is also necessary in human psychological development as a person grows and become mature mentally. This notion of equilibrium, or balance, is critical in the process of identity formation. As an organic entity, an organization also pursues such equilibrium vis-à-vis the external environment as it builds and adapts its individuality in its institutional development.

Another commonality between a human and an organization tends to support the organizational theory’s interdisciplinary cooptation of human science, such as psychology. Unlike a closed system, such as a “cybernetic” system, in which inputs from the environment can never change internal elements of an organization, both humans and organizations are “open systems” which are “capable of self-maintenance on the basis of throughput of resources from the environment.”⁵⁴ The shift from closed to open systems highlights the critical significance which the environment exerts on organizational identity,⁵⁵ as it does on the human identity.

In fact, some organization theorists have already devoted their attention to certain self-conceptions held by the organization’s participants in the name of “organizational identity,” which is defined as a “central, enduring, and distinctive” set of values “that distinguishes the organization from others with which it might be compared.”⁵⁶ This notion of organizational identity may be transported to IOs in observing and analyzing the transformation of their institutional goals and structure as IOs continuously interact with the environment and adapt themselves to survive.

B. The Identity Formation in International Organizations

⁵¹ Marcia, J. E. (1966) Development and validation of ego identity statuses. *Journal of Personality and Social Psychology*, 3, 551-558.

⁵² Id.

⁵³ Scott 60

⁵⁴ Scott 89; Buckley (1967:50).

⁵⁵ Ness & Brechin, 249

⁵⁶ Albert & Whetten (1985: 265).

1. Parameters of Identity Formation

a. History

The history of organizations renders an initial influence on their identities. As the internalized past, the history tends to determine, or at least co-relate with, the present and future behavior of organizations by defining and shaping the rationale and character of organizations. Like DNA in the human body, organizational history bestows upon organizations a certain institutional heredity, which establishes a unique path-dependence for each organization. Critically, organizational history is often used as an interpretive criteria with which to determine whether organizations' or their participants' behaviors are permitted or prohibited in accordance with their charters or constitutions.⁵⁷

Likewise, organizations cannot be simply discarded or disposed of even if they subsequently become obsolete or ineffective.⁵⁸ Purging old institutions and restarting afresh new ones might be quite costly and therefore all institutional changes tend to be path-dependent. "If sunk costs make a traditional pattern of action cheaper, and if new patterns are not enough more profitable to justify throwing away the resource, the sunk costs tend to preserve a pattern of action from one year to the next."⁵⁹ Old habits die hard. Relics of the old structure or culture remain, even though they may be encapsulated within a new institutional coating.

However, this perspective on organizational history need not be static. Perhaps to conventional IR theorists who emphasize the genesis, rather than the subsequent change, of IOs, organizational history is nothing but a reflection, or a repository, of interests and preferences of states at the time when they created them. As a tool of these states with which to achieve certain goals, organizations are supposed to implement institutional blueprints which were programmed in history. (Diagram A) In contrast, organizational sociologists and/or historical institutionalists view organizational history as a *dynamic* factor which embodies "critical junctures" in the organizational development.⁶⁰ These critical historical moments can trigger an irreversible path-dependence that is quite different from one that was pre-ordained by states.⁶¹ (Diagram B) Such a new history-making process continuously and cumulatively forms an identity of organizations. (Diagram C).

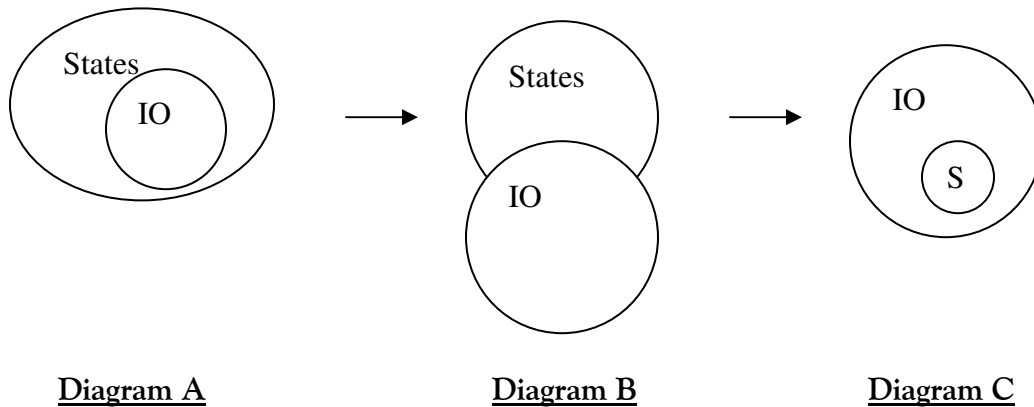
⁵⁷ Vienna Convention of the Law of Treaties

⁵⁸ Cite!

⁵⁹

⁶⁰ Pierson, Paul (2004) *Politics in Time: History, Institutions, and Social Analysis*; Thelen, Kathleen (1999) "Historical Institutionalism in Comparative Politics." *Annual Review of Political Science*. Vol. 2, pp. 369-404

⁶¹ Pierson, Paul & Skocpol, Theda. 2002. "Historical Institutionalism in Contemporary Political Science", in Ira Katznelson & Helen V. Milner (eds). *Political Science: State of the Discipline*. New York: W.W. Norton: 693-721



In sum, advocates for IOs' autonomy envisage a seamless continuum in the IO's evolution that is characterized by certain critical junctures, or in a more normative sense, "constitutional moments."⁶² The unique culture, structure and path-dependency of each IO beget also a unique institutional arrangement, such as inter-governmental or supranational, which tends to mark and define an IO's identity.

b. Environment

The environment is a critical parameter to an organizational identity. If one regards an IO as a closed system, a mere tool for states, as conventional IR theorists do, the environment may not matter much since an IO is only supposed to take what states provide (input) and produce pre-programmed results (output). However, organizational sociologists have long adhered to an open system where varying environments exert critical impact on how organizations behave and perform.⁶³ This incessant process of challenge and response between an IO and the environment builds up its unique identity. An IO processes complex information provided by the environment and forms its identity in accordance with the messages contained in those challenges.⁶⁴ In this sense, the identity-formation process of an IO is an unremitting dialogue with the environment.

The environment provides IOs with both challenges and opportunities. It forces IOs to change their identifications with the old self mostly embedded in the charter.⁶⁵ It redefines the old self, which has lost practicality and effectiveness, as obsolescence and

⁶² Helfer 662, n. 45.

⁶³ Howard Aldrich, *Organizations and Environments* (1979) (cited in Gayl D. Ness; Steven R. Brechin, *Bridging the Gap: International Organizations as Organizations*, 42 *Int'l Org.* 245, 249 (1988)).

⁶⁴ Yash P. Gupta & David C.W. Chin, *Organizational Life Cycle: A Review and Proposed Directions for Research*, 30 *Mid-Atlantic J. Bus.* 15 (1994); Galbraith 1973.

⁶⁵ Ibrahim F.I. Shihata, *The Dynamic Evolution of International Organizations: The Case of the World Bank*, 2 *J. His. Int'l L.* 217, 218 (2000).

desuetude.⁶⁶ From an economic perspective, this identity-formation process is a function of altered opportunity costs in response to environmental changes.⁶⁷

c. Objective and Purpose

An IO's objective and purpose is the rationale of its existence. Initially, it is *given* by an IO's creators (states) and engraved in its charter. Yet, as an IO forms/modifies its identity through dynamic (historical) development it also alters, or at least fine-tunes, its objective and purpose. In other words, organizational goals must be dynamic and modifiable for organizations to survive.⁶⁸

Importantly, these goals are inseparable from an IO's identity because they are both "cultural-cognitive and normative."⁶⁹ They shape an IO's identity since they steer, regulate and control an IO's activities. They also provide essential interpretive guidance when an IO determines whether a certain action is acceptable.⁷⁰ In this regard, as Selznick noted, an organizational goal can be an "ideological weapon" with which to defy opposition and mobilize support from the environment.⁷¹

d. Technology

An IO's "core technology"⁷² refers to its functional capability to perform in order to achieve its goals. It defines its domain and thus its identity by determining the range of products or services it provides and the types of clients or consumers served.⁷³ The International Monetary Fund (IMF)'s identity is as a *financial* organization since it is capable of monitoring and regulating international financial flows. The WHO is a *health* organization since it can monitor and regulate health-related matters, such as the distribution of flu vaccines. The International Atomic Energy Agency (IAEA) is a *nuclear energy* organization since it can monitor and regulate nuclear energy issues, such as peaceful use of atomic energy.

As an open system, organizations can import technology from their environment.⁷⁴ When interacting with their environment, it can change the core technology by

⁶⁶ Shihata, 220

⁶⁷ Keohane (1988:390); North (1981)

⁶⁸ Ness & Brechin, 264; Alvin W. Gouldner, *Organizational Analysis*, in Robert Merton et al., *Sociology Today* (1959).

⁶⁹ Scott 22

⁷⁰ Vienna Convention of the Law of Treaties, art. 31.

⁷¹ Selznick 1949; Scott 292

⁷² Scott

⁷³ Scott 126; Levine & White (1961); Ness & Brechin 256

⁷⁴ Scott 23

modifying its software (skills and other social knowledge), humanware (personnel and bureaucrats) and hardware (headquarters and sub-organizations).⁷⁵

2. The Normative Nature of Identity Formation

Like adolescents do in their identity formation process, IOs also experience certain socialization pressures from their environment and are forced to diversify their institutional selves into multiple roles which should eventually be integrated into an internally coherent identity.⁷⁶ Naturally, identity formation is not a smooth process, for either a human being or an IO. It may be accompanied by confusion, fatigue and stress: it is a *crisis*.

For an IO, identity crisis can be translated into a normative process. As discussed above, identity-forming organizational changes which are necessary for an IO's survival are teleological⁷⁷ and constitutive since they confirm or redefine its organizational goals and thus regulate behaviors of members and the organization itself.⁷⁸ This teleological and constitutive process is best captured by norms and legal discourse within an IO. "Intersubjective" or "reflective" discourse and interaction among members, as well as between members and the IO itself, are not only intermediated by but also generate norms.⁷⁹ Norms provide and change the syntax and grammar of an IO's operation.

Norms and legal discourse operate the identity-forming process by using and controlling the technology of an IO. Forming an IO's identity means, from a normative perspective, establishing institutional criteria of acceptable behaviors or policies which characterize the IO. These criteria may be formulated by mobilizing its software (e.g., interpretation),⁸⁰ hardware (e.g., committees) and humanware (e.g., experts). For example, the identity of World Bank, a *development* organization, as stipulated in Article 1 of its charter (Articles of Agreement), has transformed via teleological interpretation from an organization tackling a narrow economic well-being calculated by per capita income to that addressing a more comprehensive welfare including socio-cultural aspects, such as women, the environment, education, and health.⁸¹

3. Failures of Identity Formation

⁷⁵ Ness & Brechin 256

⁷⁶ Susan Harter, *Self and Identity Development*, in *At the Threshold: The Developing Adolescent* 358 (S. Shirley Feldman & Glen R. Elliott eds. 1990).

⁷⁷ Ness & Brechin, 246

⁷⁸ Keohane (1988: 382)

⁷⁹

⁸⁰ See e.g., Georg Ress, "The Interpretation of the Charter", in *The Charter of the United Nations – A Commentary* 28 (Bruno Simma ed., 1994) (discussing "evolutionary dynamic interpretation").

⁸¹ Shihata 249

If an IO cannot survive its identity crisis, it fails to achieve its true identity. First, in the face of challenges by the changing environment it may still remain attached to an old identification which has been prescribed by its creators, i.e., states. This unresponsiveness to the environment, which may be equivalent to “foreclosure” in human psychology, eventually leads to “inefficient, self-defeating behavior.”⁸² Second, if an IO is confused by multiple identifications and fails to commit itself to one coherent identity, its identity is diffused (“identity diffusion”). Identity diffusion, as in foreclosure, is a pathological symptom. It gravely reduces the output level of an IO. IOs may even cease to exist due to these pathologies.⁸³

IV. An Application of the Identity Formation Theory: A Case Study on World Trade Organization (WTO)

A. From a Contractual Tool (GATT) to an Autonomous Organization (WTO)

As one of many chapters of a much more ambitious yet aborted International Trade Organization (ITO), the General Agreement on Tariffs and Trade (GATT) was originally more of a contractual document than an organization. The GATT participants were named *contracting* parties, rather than members. They created the GATT against the background of mutually destructive protectionist trade policies in the interwar period, which shrunk world trade by seventy percent and thus contributed to the outbreak of World War II.⁸⁴ Based on “enlightened self-interests,” contracting parties aimed to dismantle trade barriers and achieve free trade by regularly holding tariff reduction talks in a series of negotiation rounds which the GATT provided.

While trade negotiation was basically a reciprocal, diplomatic and political exercise, contracting parties had to preserve the hard-won delicate balance of concessions which each negotiation had produced. In other words, they had to maintain the values of those concessions by prohibiting parties from introducing any measures which might cancel off such values. Those measures should be condemned and remedies instituted to restore the balance of concessions. Therefore, the GATT, albeit a legal document, was basically a tool for contracting parties which were pre-occupied by the terms of bargains. This instrumental, contractual structure of the GATT is evidenced by relics of private (contract) law embedded in the old GATT jurisprudence. The remedial prototype of the

⁸² Barnett & Finnemore, 700

⁸³ See Cheryl Shanks et al., *Inertia and Change in the Constellation of International Governmental Organizations, 1981-1992*, 50 *Int'l Org.* 593, 594 (1996) (observing that IOs “do have a mortality rate, and it can be surprisingly high”).

⁸⁴ See Edward C. Luck, *American Exceptionalism and International Organization: Lessons from the 1990s*, in *U.S. HEGEMONY AND INTERNATIONAL ORGANIZATIONS: THE UNITED STATES AND MULTILATERAL INSTITUTIONS* 25, 39 (Rosemary Foot et al eds. 2003) (quoting remarks by the former U.S. Trade Representative Charlene Barshefsky on the U.S. trade policy and the WTO on Mar. 2, 2000).

GATT was “nullification or impairment,” which is close to the notion of injuries or damages in the law of contract. Regardless of the consistency of the measure in question with GATT norms, any injuries to a contracting party, i.e., the dilution of benefits of its concession, should be remedied to preserve the balance of concession made in the previous negotiation.⁸⁵ GATT dispute panels often explored whether and how much a defendant’s measure in question brought adverse commercial effects to the complainant.⁸⁶

However, this instrumental (contractual) structure of the GATT changed as it became more institutionalized, equipped with more software (norms and practices), hardware (divisions and offices), and humanware (personnel). The GATT began to focus more on the public law aspect, such as the predictability that the rule of law in this field offers. As the former Director of the WTO Appellate Body Secretariat Debra Steger aptly described, the GATT slowly evolved into “something greater than a contract that could be withdrawn from by any contracting party whenever it found the obligations too onerous.”⁸⁷ In the same line, the once critical notion of “nullification or impairment” was weakened as it was assumed away whenever a panel found a violation.⁸⁸ In fact, any violation would ipso facto constitute a nullification or impairment.⁸⁹ This paradigm shift, from a power-oriented structure focusing on the outcome of negotiation to a rule-oriented structure valuing the legal system within the GATT, paved the ground for a critical transformation from a contract to an organization.⁹⁰ As Anne Krueger aptly observed, the WTO’s organizational autonomy, i.e., its legal personality, tends to justify an institutional evolution from the old GATT, which had been deemed an instrument of contracting parties, to an independent organization.⁹¹

B. The WTO’s Identity Crisis

The legalization, or judicialization, of the GATT through its dispute settlement system contributed greatly to its institutionalization. Its panel system functioned quite well in resolving trade disputes between contracting parties. Critically, the GATT not only resolved trade disputes but also generated a rich set of jurisprudence in the area of

⁸⁵ See Sungjoon Cho, *The Nature of Remedies in International Trade Law*, 65 U. PITT. L. REV. 763, 766-67 (2004).

⁸⁶ See e.g., *Italian Discrimination Against Imported Agricultural Machinery*, Oct. 23, 1958, GATT B.I.S.D. (7th Supp.) at 60, ¶ 17, 20 (1959) [WTO Doc. Symbol BISD/75/60].

⁸⁷ Debra P. Steger, *Afterword: The "Trade and . . ." Conundrum-A Commentary*, 96 Am. J. Int'l L. 135, 137 (2002).

⁸⁸ *Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance*, Nov. 28, 1979, GATT B.I.S.D. (26th Supp.) at 210 (1980) [WTO Doc. Symbol L/4907].

⁸⁹ See *United States-Taxes on Petroleum and Certain Imported Substances*, Jan. 17, 1987, GATT B.I.S.D. (34th Supp.) at 136, §§ 5.1.3-5.1.12 (1988) [WTO Doc. Symbol L/6175].

⁹⁰ JOHN H. JACKSON, *THE WORLD TRADING SYSTEM* 109-11 (2d ed. 1997).

⁹¹ Krueger, *Introduction*, 2. *But see* Martin, Lisa L. and Judith Goldstein. 2000. "Legalization, Trade Liberalization and Domestic Politics: a Cautionary Note." *International Organization* 53, No. 3 (Summer 2000): 603-632.

international trade law. The rule of law which the GATT established in the trade area was the most valuable product that the GATT produced as an organization. This legalization, or rule of law, in the trade area enabled the GATT to process information and further build up its unique technology, i.e., trade governance. Contracting parties increasingly relied on the GATT in acquiring information and addressing various problems concerning trade. In sum, the GATT consolidated its identification with what it was meant to be, i.e., a trade agreement.

However, the environment surrounding the GATT was changing dramatically in the 1980's and the pro-trade bias of the GATT came under attack. The rising ethos of "welfare state" urged governments to improve social hygiene in the areas of the environment and human health. The problem is that the proliferation of these social regulations might potentially undermine free trade goals since trade restriction due to regulatory heterogeneity tends to become increasingly painful in times of growing interdependence.⁹² Under certain circumstances, these new domestic regulations, as non-tariff barriers (NTBs), can be abused as a disguised form of protectionism.⁹³

The GATT first defied this rising tide of (re-) regulation by striking down these regulations as trade-restrictive. Although there existed the general exception clause (GATT Article XX) under which these regulations might be justified, not a single measure was ever actually justified under the clause in the GATT's history.⁹⁴ For example, in 1990 a GATT panel struck down the Thai ban on foreign cigarettes as unnecessary

⁹² A number of scholars have already paid attention to this phenomenon. For instance, Sol Picciotto observed that:

"Regulatory regimes have been brought into greater interaction as the removal of direct barriers to the flows of goods and money between states (tariffs, quotas and exchange controls) has shifted attention towards regulatory difference as a barrier to entry of commodities or capital."

Sol Picciotto, *The Regulatory Criss-Cross: Interaction between Jurisdictions and the Construction of Global Regulatory Networks*, in *INTERNATIONAL REGULATORY COMPETITION AND COORDINATION: PERSPECTIVES ON ECONOMIC REGULATION IN EUROPE AND THE UNITED STATES* 89 (William Bratton et al eds. 1996).

Likewise, some economists have also noted that:

"As globalization proceeds, however, it has become increasingly evident that one nation's economic policies can affect other countries. When nations were separated by high trade barriers and trade flows were limited, one country could ignore another nation's domestic economic policies. As barriers have come down, other countries' domestic policies have become much more important."

GLOBAPHOBIA: CONFRONTING FEARS ABOUT OPEN TRADE 89 (Gary Burtless et al eds. 1998). *See also* Aaditya Mattoo, *Discriminatory Consequences of Non-Discriminatory Standards*, WTO, WTO STAFF WORKING PAPERS, TISD-96-01, Dec. 1997, available at http://www.wto.org/english/res_e/reser_e/wpaps_e.htm (last visited on April 19, 2001).

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⁹⁴ Robert Howse, *Managing the Interface between International Trade Law and the Regulatory State: What Lessons Should (and Should Not) Be Drawn from the Jurisprudence of the United States Dormant Commerce Clause*, in *REGULATORY BARRIERS AND THE PRINCIPLE OF NON-DISCRIMINATION IN WORLD TRADE LAW* 142 (Thomas Cottier & Petros C. Mavroidis eds. 2000).

trade restriction.⁹⁵ In this case, the Thai government tried to protect its people from the many identified harms from chemicals and toxins contained in foreign cigarettes by banning those products. In fact, the World Health Organization (WHO) also endorsed such ban. However, the panel ruled that the ban was an unjustifiable violation of the GATT rules since the Thai government could have found less trade restrictive means than the ban, such as the “strict, non-discriminatory labeling and ingredient disclosure regulations.”⁹⁶ This ruling was severely criticized not only because it ignored the WHO’s opinion but also because its prescription to the Thai government, i.e., labeling and disclosure regulations, was both unaffordable and ineffective for a developing country like Thailand at that time.⁹⁷

Therefore, while a pro-trade bias was faithful to the GATT’s identification with a trade agreement, such a bias continuously invited criticism from its environment, in particular civil society and environmental organizations. The GATT’s efforts to fix this bias and achieve its more mature identity gathered critical momentum in the launch of the WTO. The WTO’s mission statement under the preamble of its charter emphasizes “sustainable development.” It has become obvious that due consideration and investment for non-trade values, such as the environment and human health, should be made *within* the WTO in order to achieve any development which is sustainable. The creation of the Trade and Environment Committee and special side agreements, such as the Agreement on Technical Barriers to Trade (TBT) and the Agreement on Sanitary and Phytosanitary Measures (SPS), can be understood as the WTO’s effort to grow out of the pro-trade bias and form a more mature and responsive identity as a “trade” organization.⁹⁸

Those who advocate a formal (hard) linkage between trade and social values tend to argue that certain “social clauses,” which include fundamental workers’ rights or minimum international labor standards, should be normatively incorporated into the WTO system.⁹⁹ Accordingly, (rich) WTO members may restrict imports from other (poor) members if the latter’s social conditions or practices violate these social clauses. Despite its ostensible moralistic streaks, however, these debates on hard linkage are a manifestation of the WTO’s identity crisis. The WTO is continuously receiving demands for these regulatory roles and is thus exposed to different role identifications with a labor or environmental organization beyond a trade organization. Perhaps the WTO might be a victim of its own success. The unprecedented success of the GATT/WTO regime and in

⁹⁵ Thailand - Restrictions on Importation of and Internal Taxes on Cigarettes, adopted on Nov. 7, 1990, B.I.S.D. 37S/200.

⁹⁶ *Id.*, para. 77.

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⁹⁸ See generally Sungjoon Cho, *Free Markets and Social Regulation: A Reform Agenda of the Global Trading System* (2003). See also Veijo Heiskanen, *The Regulatory Philosophy of International Trade*, 38 *J. World Trade* 1 (2004).

⁹⁹ See e.g., Virginia A. Leary, *Workers’ Rights and International Trade: The Social Clause* (GATT, ILO, NAFTA, U.S. Laws), in Bhagwati and Hudec, eds, *2 Fair Trade and Harmonization* 177, 223 (cited in note 13); Dani Rodrik, *Developing Countries after the Uruguay Round*, Center for Economic Policy Research Working Paper No. 1084 (1994) (proposing a “social safeguards” clause based on core labor rights in the WTO).

particular its dispute settlement mechanism tends to attract many social issues to the regime.¹⁰⁰ This gravitational force from the WTO's environment to the WTO forces it to undertake diverse role expectations.¹⁰¹

Critically, however, such hard linkage, i.e., invoking trade sanctions in the name of protecting non-trade values, such as the environment or labor protection, risks undermining the WTO's core values, i.e., free trade.¹⁰² In other words, the WTO risks suffering from a form of identity diffusion under which it may not be identified as a trade organization since it fails to achieve trade values, while at the same time it also may not be identified as a different regulatory international organization since it also fails to contribute significantly to the attainment of those social goals within its institutional purview.

In general, these social standards are lower for developing countries than developed countries simply because the former countries are poorer than the latter.¹⁰³ If the WTO, in the absence of relevant resources, such as budget and personnel, with which to address these non-trade values, nonetheless ventures to do so by means of its antithesis, i.e., trade restriction, it will only encroach on poor countries' comparative advantages, such as cheap labor, and thus generate serious tensions between rich and poor countries without affecting the root cause of problems.¹⁰⁴ Rich countries may even be tempted to use these regulatory concerns as convenient excuses for raising trade barriers, as seen in green or blue protectionism.¹⁰⁵ Then, the WTO will perform neither a trade nor a non-trade function, and therefore its identity would be lost. This would be tantamount to identity diffusion for the WTO.

This risk of identity diffusion might also be found in yet another linkage of "trade and development." During its first decade, the WTO has failed to narrow the income gap between the rich and the poor. The least-developed countries' marginalization from the mainstream of the global trading system and the subsequent abject poverty in these countries seriously questioned the rationale of the WTO.¹⁰⁶ This development deficiency¹⁰⁷ drove the WTO towards yet another identification with development as it

¹⁰⁰ See Steve Charnovitz, *Triangulating the World Trade Organization*, 96 *Am J Intl L* 28, 29 (2002); Sylvia Ostry, *The WTO and International Governance*, in Klaus Günter Deutsch and Bernhard Speyer, eds, *The World Trade Organization Millennium Round: Freer Trade in the Twenty-First Century* 285, 290, 293 (Routledge 2001); José E. Alvarez, *How Not To Link: Institutional Conundrums of an Expanded Trade Regime*, 7 *Widener L Symp J* 1, 15 (2001).

¹⁰¹ Tomer Broude analyzed this problem in the area of trade and development. See Tomer Broude, *The Rule(s) of Trade and Rhetos of Development: Reflections on the Functional and Aspirational Legitimacy of the WTO*, *Colum. J. Trans. L.*

¹⁰² Anderson, 243-45

¹⁰³ *Id.*, at 244.

¹⁰⁴ *Id.*

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¹⁰⁶ Cho, *WTO's Gemeinschaft*

¹⁰⁷ Celso L. N. Amorim, *The WTO from the Perspective of a Developing Country*, 24 *FORDHAM INT'L L.J.* 95, 96-99 (2000) (discussing "development deficit" under the WTO in the areas of agriculture and textiles).

launched the Doha Development Agenda (DDA) in 2001. However, as Tomer Broude observed, the rhetoric of the development round does not fully match the technology (capacity) of the WTO.¹⁰⁸ However, if the WTO attempts to achieve development goals by according developing countries rule exemptions in the name of “special and differential treatment,” it might be counterproductive because it would eventually hurt development by “discouraging effective efforts to integrate into the world economy.”¹⁰⁹

Confronting this risk of identity diffusion, some might argue that the WTO should never be involved in these regulatory issues.¹¹⁰ Yet, this impulsive reaction tends to usher in yet another risk of failed identity formation, i.e., “foreclosure.” In other words, the WTO may be preoccupied by its own “ritualized behavior,” i.e., its pro-trade bias, which is totally unresponsive and unaccountable to the larger social environment.¹¹¹ Such “insulation” from its environment and refusal to process the meaningful information provided by its environment tend to chip away at its legitimacy, and is thus fatal to the organization’s survival.¹¹²

C. Toward the WTO’s Identity Achievement

The WTO’s identity formation or identity achievement is inseparable from its recognition of inevitable connectedness to its environment. The WTO is an open system and not a self-contained regime.¹¹³ Granted, the WTO interacts with, responds to, and is even influenced by its legal environment. Nonetheless, the WTO’s openness as an organization should not be confused with its autonomy or “autopoietic” status preserving its legal integrity or “operative closure.”¹¹⁴ In other words, the WTO’s central identity is as a *trade* organization and its main concern is the rule of law in the area of international trade. Other areas of law, such as human rights law or international environmental law, could and should not become the law of the WTO per se. The WTO may accommodate these non-trade values by voluntarily “altering” its own internal legal and institutional choices in the course of its evolution.¹¹⁵ Yet, these non-trade values must not be “imposed” on the WTO externally as they force the WTO to accept norms and consequences which are inconsistent with its main identity.¹¹⁶

¹⁰⁸ Broude

¹⁰⁹ Finger & Winters, 390

¹¹⁰ Anderson, 245

¹¹¹ Barnett & Finnemore, 718; Howse (“insiders”); Weiler (“diplomat’s ethos”).

¹¹² *Id.*, 722

¹¹³ See Pascal Lamy, *The Place of the WTO and Its Law in the International Legal Order*, 17 *Eur. J. Int’l L.* 969 (2006) (observing that “the WTO is well aware of the existence of other systems of norms and of the fact that it is not acting alone in the international sphere.”).

¹¹⁴ Richard Nobles & David Schiff, *Introduction*, in NIKLAS LUHMANN, *LAW AS A SOCIAL SYSTEM* 8 (Fatima Kastner et al. eds 2004).

¹¹⁵ *Id.*

¹¹⁶ See generally Sungjoon Cho, *WTO’s Identity Crisis*, GLOBAL LAW BOOKS, <http://www.globallawbooks.org/reviews/detail.asp?id=53> (Jan. 31, 2006), reprinted in 5 *WORLD TRADE REV.* 298 (2006).

Therefore, a desirable form of identity formation for the WTO will be to attain an institutional equilibrium between trade and non-trade (social) regulatory values without losing its identity as a *trade* organization. This equilibrium means reconciliation between trade and social values from the WTO's perspective as a *trade* organization. This reconciliation should be based on, and loyal to, the WTO's institutional capacity, its core technology and its own path-dependency. In other words, the agenda should be "trade and labor or environment" not "labor or environment and trade." The WTO's core technology, such as its software (jurisprudence) and hardware (committees), is capable of performing such reconciliation.

First of all, via its constructive (teleological) interpretation, the WTO tribunal can harmonize trade and social values without losing the WTO's identity. In paradigmatic cases such as *Gasoline* (1996)¹¹⁷ and *Shrimp-Turtle* (1998),¹¹⁸ the WTO tribunal bestowed on domestic regulators broad discretion in establishing the *content* of regulations, while it focused on the *manner* as to how they were applied.¹¹⁹ This interpretation is teleological in the sense that it was driven by the WTO's new *telos*, "sustainable development," which is nothing but the WTO's new commitment to a more balanced organizational identity than the old GATT.

Therefore, these rulings represent a mature departure from the GATT's narrow identification with a pro-trade bias, which was tantamount to foreclosure as a failure of identity formation. In these cases, the WTO no longer dismissed social (human health) values in a blind pursuit of trade values as in *Thai Cigarette*. In *Shrimp-Turtle*, the WTO tribunal referenced non-trade (environmental) conventions, such as the United Nations Convention on the Law of the Sea (UNCLOS) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in an effort to locate a common ground between the WTO and those environmental treaties.¹²⁰

Another way of incorporating social values within the WTO without diffusing its identity is to pursue quasi-harmonization through international standards. Any hard regulatory bargaining within the WTO that aims for a single undertaking would be infeasible simply due to the WTO's lack of core technology in these regulatory areas as well as its politically combustible nature.¹²¹ A more realistic way is to utilize the pre-existing hardware, such as the Trade and Environment Committee and the SPS

¹¹⁷ WTO, Report of the Appellate Body, United States--Standards for Reformulated and Conventional Gasoline, WTO Doc No WT/DS2/AB/R (Apr 29, 1996) [hereinafter *Gasoline*].

¹¹⁸ WTO, Report of the Appellate Body, United States--Import Prohibition of Certain Shrimp and Shrimp Products, WTO Doc No WT/DS58/AB/R (Oct 12, 1998) [hereinafter *Shrimp-Turtle*].

¹¹⁹ *Id.*, paras. 146-86 (regarding the so-called "chapeau test"). See SUNGJOON CHO, FREE MARKETS AND SOCIAL REGULATION: A REFORM AGENDA OF THE GLOBAL TRADING SYSTEM 45-62 (2003); Cho, *Linkage*, *supra* note 37, at 652-53.

¹²⁰ *Id.*, paras. 130, 132.

¹²¹ But see Andrew T. Guzman, Global Governance and the WTO, 45 Harv Intl L J 303, 307-08 (2004) (arguing for a grand regulatory bargaining within the WTO).

Committee, to encourage WTO members to tap into relevant international standards.¹²² These committees, if well operated, can contribute greatly to regulatory dialogue among WTO members and effectively address the subtle interface between trade and regulatory issues. At the same time, in this committee process the WTO can co-opt relevant international regulatory organizations such as the International Organization for Standardization ("ISO"), the International Electrotechnical Commission ("IEC"), and the "Codex Alimentarius Commission."

Finally, such reconciliation may also be translated into "coherence" in policy-making between the WTO and other relevant IOs. For example, the World Bank can help the WTO finance "technical assistance" projects, such as the training of government officials, to build the regulatory capacity of developing countries.¹²³ The WTO and other IOs can also perform a joint study that identifies areas of common concerns and interests. The recent WTO-ILO joint study, "Trade and Employment: Challenges for Policy Research," offers a good example in this regard.¹²⁴ By identifying common interests and concerns of both organizations as well as defining a relationship between trade and employment, this type of joint study provides a fertile ground for policy coherence between trade and non-trade values. Under this nuanced approach, the WTO can maintain the fidelity to its identity as a *trade* organization while it still responds to its increasingly demanding environment.

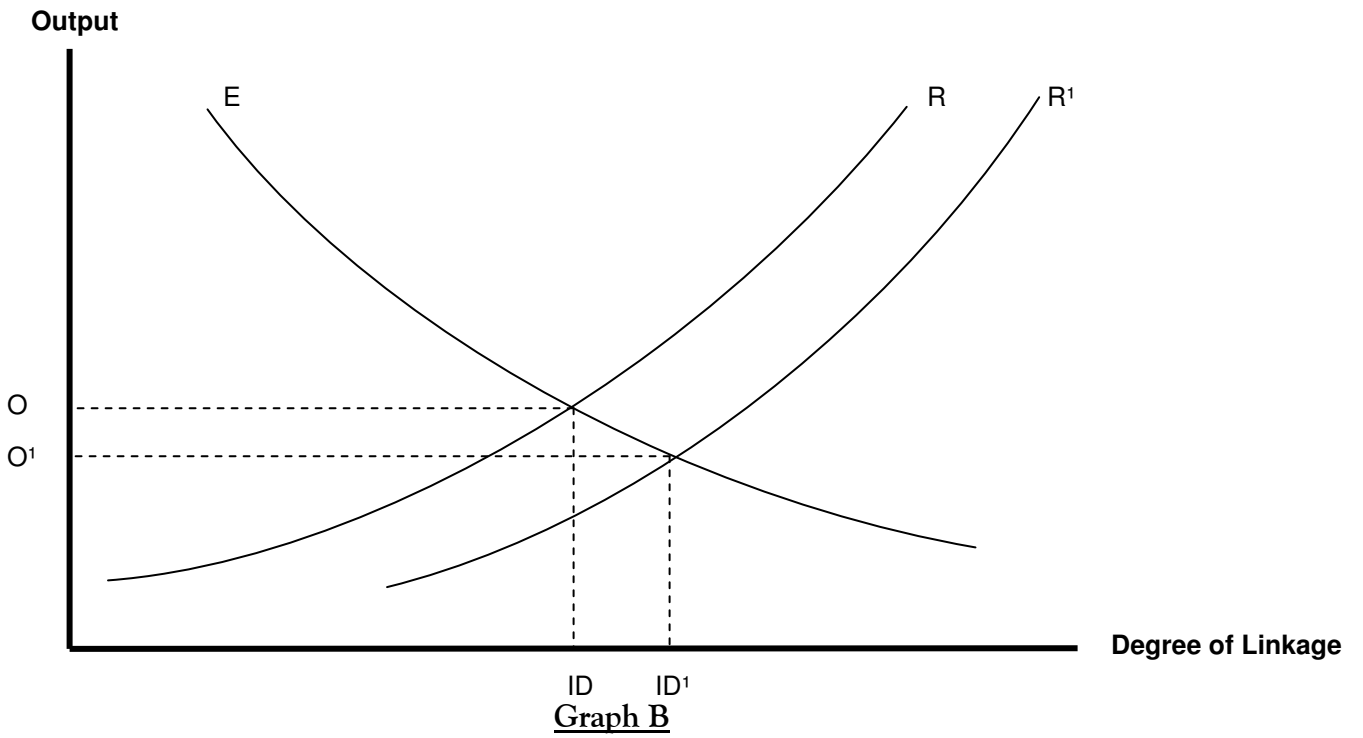
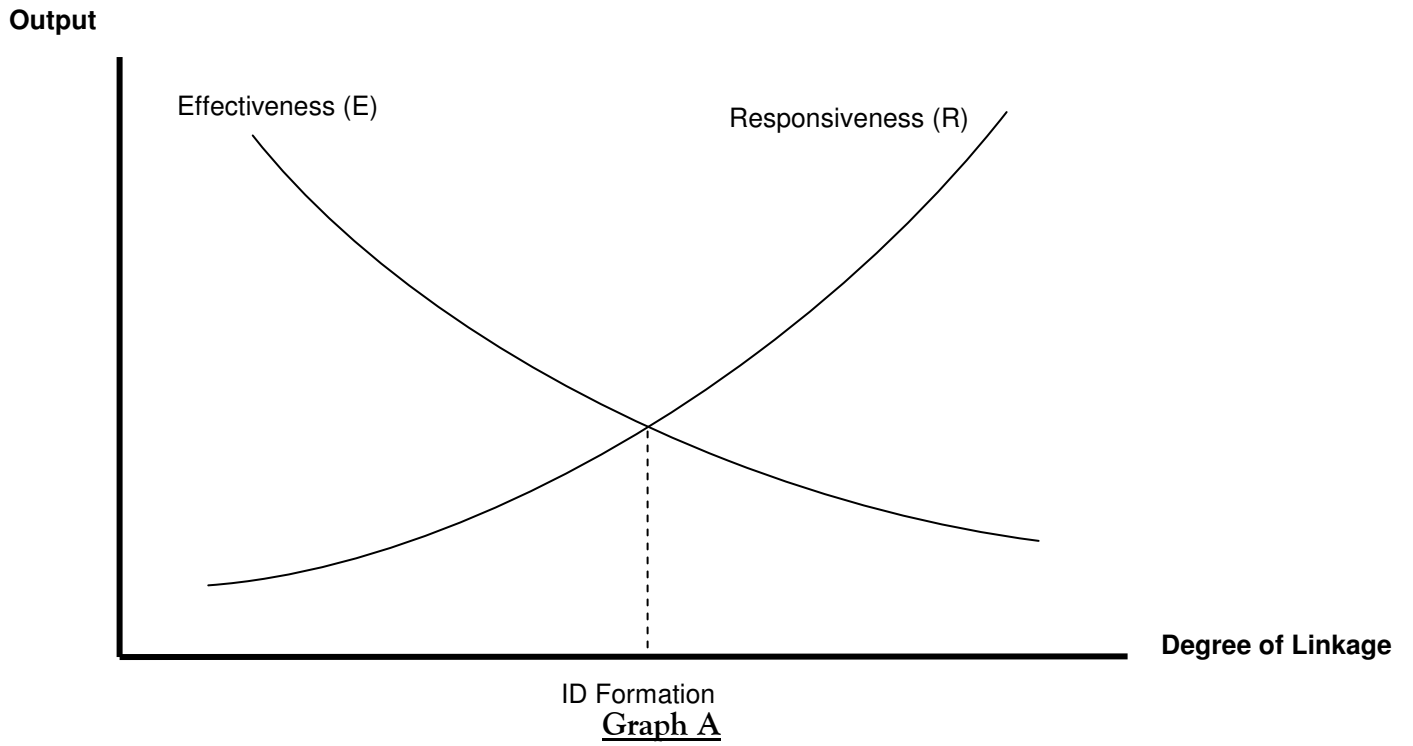
Importantly, however, the WTO's identity achievement may come with a price. The identity achievement as an institutional equilibrium is determined by a confluence of two forces, i.e., trade values represented by effectiveness as a trade organization, and non-trade values represented by responsiveness to external demands. (Graph A) When the WTO's responsiveness increases, e.g., when the WTO spends more resources on non-trade values, the WTO's overall output tends to decrease even if its identity may be formed at an increased degree of linkage. (Graph B).¹²⁵ This is the price the WTO pays to be responsive. Therefore, the WTO's own institutional capacity should be beefed up with more inputs to maintain its output level despite the increased responsiveness. (Graph C). In this context, the WTO should be equipped with more resources and investment in the so-called new areas created under the Uruguay Round, such as TRIPS, as well as more recently designated area under the Doha round, development, as long as it wants to maintain a decent output level as a trade organization while it can still be responsive to these non-trade or trade-related values.

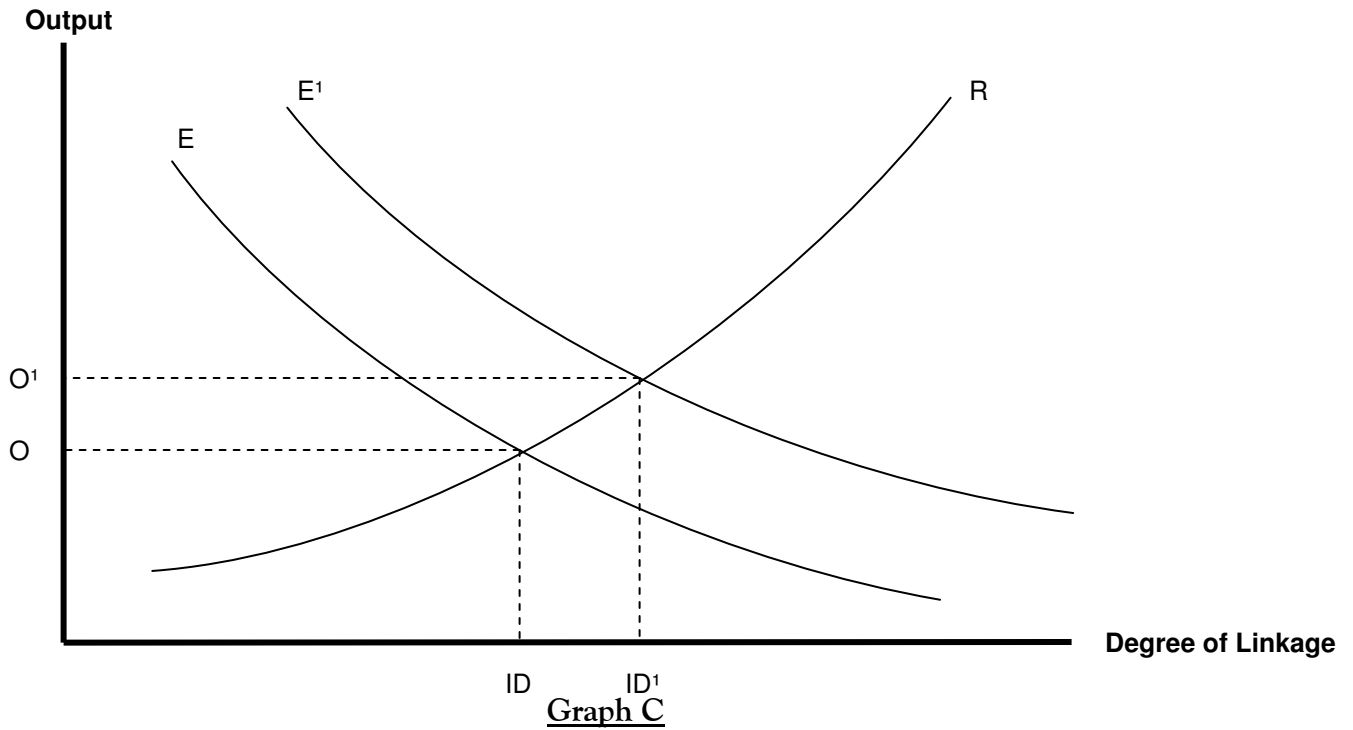
¹²² See Sungjoon Cho, *Linkage of Free Trade and Social Regulation: Moving Beyond the Entropic Dilemma*, 6 CHI. J. INT'L L. 625 (2005).

¹²³ Sampson, 265

¹²⁴ WTO & ILO, *Trade and Employment: Challenges for Policy Research* (2007).

¹²⁵ Cf. Manfred Elsig, *The World Trade Organization's Legitimacy Crisis: What Does the Beast Look Like?*, 41 J. World Trade 75, 79-80 (2007) (warning that the WTO's institutional redesign to meet concerns of legitimate governance could lead to hampered output efficiency).





V. Conclusion

This Article argues that an IO, like a human being, is prone to the process of identity formation based on its autonomy from its members (states). As it undergoes various institutional changes, its old identifications with certain goals or functions may encounter a new set of identifications with other goals or functions and thus experience confusion as to its true identity (identity crisis). An IO can achieve a consistent and coherent institutional self (identity) by striking a balance among these multiple identifications under its parameters, such as its environment and technology. Yet, an IO may also fail to achieve its identity by insulating itself from its environment (foreclosure) or being adrift in the middle of these multiple identifications without making any commitments to a final identity (identity diffusion).

Admittedly, this Article offers little explanation on a microscopic internal dynamics as to how social actors (states) of an IO influence its identity formation process. This should be tackled by a future research agenda, which will engage more actively conventional IR theories in an attempt to build a more comprehensive, or universal, theory of IOs' institutional changes.