Viterbo I 2005 - Abstracts

The electronic journal "Global Jurist: Advances" has published a special Issue:
Global Administrative Law and Global Governance.
Guest editors Sabino Cassesse, University of Rome and NYU; and Martina Conticelli, University of Rome

The following are the themes and titles of the specific papers that are included. Abstracts of papers are included below. The Abstracts are accompanied by electronic links, so that readers in institutions that subscribe to the Global Jurist e-publication will be able to access full texts of papers.

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Bibliography
Bruno Carotti and Lorenzo Casini "Global Administrative Law: Bibliography".

The essays collected in this Issue were discussed during a seminar on Global Administrative Law, held on June 10-11, 2005 in Viterbo, at the Political Science Faculty of La Tuscia University. These studies have been carried out within the research project on Lo spazio giuridico globale headed by Sabino Cassese .

ABSTRACTS and LINKS

Martina Conticelli (2006) "The G8 and 'the Others'", Global Jurist Advances: Vol. 6: No. 3, Article 2.
http://www.bepress.com/gj/advances/vol6/iss3/art2

ABSTRACT:
Since 1975, the heads of State and government of the richest countries have held regular meetings. Their partnership derives from the sharing of common values, both political and economic. The main advantage of having such discussions, for those who take part in them, consists in knowing in advance the movement of the other players, and in coordinating their action consequentially. On the other hand, the main issues of discussion, such as trade, relations with developing countries, energy, and terrorism, have a concrete relevance not only for those who take part in the group. In most cases, the G8 has played a central role in complex international decision-making processes, which affected mainly third States. Good examples of this effect are the G8 action in conflict prevention, its contribution to the HIPC Initiative, and its leading role in the resolution of the conflict in Kosovo. The G8 holds a central position in the current developments of global governance. Following on the output of the annual meetings, the group coordinates and addresses a broader range of issues than that assumed to be entrusted with it (the G8 process); similarly, the action of the group affects a wider range of actors (the G8 system) than that comprising its actual membership. The analysis will move from the study of the G8 decision-making process, focusing, first, on the relationships among the members, secondly, on the connections with other existing international organizations, and, finally, on the dialogue with "third parties". The aim of the paper is to investigate if and how the intervention of the G8 in international policy making may affect actors other than the ones involved in decision making.

A. Luisa Perrotti (2006) "WTO Relations with Non-State Actors: Captive to Its Own Web?", Global Jurist Advances: Vol. 6: No. 3, Article 3.
http://www.bepress.com/gj/advances/vol6/iss3/art3

ABSTRACT:
The paper aims at highlighting certain dynamics and trends of which the strengthening of the relationships between the WTO and non-State actors may constitute an indicator. The question is addressed as to whether the multiplication of such relations constitutes an instrument for the WTO to take up the role of bearer and guarantor of interests which exceed those that the founding Treaty confers upon it. In the affirmative case, it could be argued that dynamics are in place that

justify allegations of the "legitimacy deficit" of the WTO. It would remain to be ascertained whether, and to what extent, the fact that the relations examined in this paper grow in number and salience meet, at least partially and indirectly, the demand for increased legitimacy and representativity of the organization. In the negative case, it would be possible to conclude that the "spider-WTO" becomes captive to the very web of relations that it threads.

Chiara Martini (2006) "States' Control over New International Organization", Global Jurist Advances: Vol. 6: No. 3, Article 4.
http://www.bepress.com/gj/advances/vol6/iss3/art4

ABSTRACT:
International organizations (IGOs) are considered instruments of the States which created them and which retain the authority to decide when they cease to exist. Most part of contemporary international institutions, however, is not established by States through formal international treaties, but on the basis of joint decisions by other international organizations. Thus, States become members of such second-order organizations by passive assent, by virtue of their membership in the parent organization. Do these developments in the current constellation of IGOs still allow for considering international organizations as mere instruments of national governments? To what extent, and how, are the international organizations subject to the control and influence of the States in those cases in which they are not directly constituted by them? In order to address these questions, the paper will map out the variety of relationships and connections, which currently link States among each other as well as to second-order organizations. Then, the analysis will turn to the procedures for creating, as well as to the actual structure and activities of such organizations. Attention will be focused on those aspects which best highlight the presence and power of the States within them.

Mario Savino (2006) "The Role of Transnational Committees in the European and Global Orders", Global Jurist Advances: Vol. 6: No. 3, Article 5.
http://www.bepress.com/gj/advances/vol6/iss3/art5

ABSTRACT:
Committees - i.e. transgovernmental and transnational bodies, composed of national officials, independent experts and/or interest representatives - are an important mechanism for accelerating negotiations in the European decision-making process. Substantial agreements are reached in specialized administrative colleges, which enjoy a heightened decision-making capacity. The European committees are thus essential tools for conflict prevention: they play a fundamental role in reconciling potentially conflicting national and supranational interests. Can the same be said of global committees? Are they similarly efficient in generating consensual decisions and reconciling the interests of the member States? The answer advanced in the paper is grounded on a comparison of structural and functional elements. The organizational models characteristic of the global committees largely correspond to those of the European system. Still, the relevant structural difference lies in their composition: while in the European Union the (transgovernmental) committees are all plenary, being composed of delegations of all Member States, in the universal organizations, by contrast, plenary committees are the exception. This

organizational difference is reflected on the functional dimension: both European and global committees perform an essentially decisional activity, but global committees' efficiency (or productivity) and effectiveness (measurable in terms of member States' compliance) are relatively compromised by their (mainly) non-plenary composition. This is probably one of the reasons why effective problem-solving is greater in the European Union than in other international organizations.

Maurizia De Bellis (2006) "Global Standards for Domestic Financial Regulations: Concourse, Competition and Mutual Reinforcement between Different Types of Global Administration", Global Jurist Advances: Vol. 6: No. 3, Article 6.
http://www.bepress.com/gj/advances/vol6/iss3/art6

ABSTRACT:
Over the last decades, the number of international standards for financial regulation has increased remarkably. Transgovernmental networks for banking, securities and insurance regulation, such as the Basel Committee, IOSCO and IAIS, all constitute standards setting bodies. Similarly, also international organizations like the IMF and the World Bank produce international financial standards. Furthermore, the Financial Stability Forum - FSF brings together not only the transgovernmental regulatory networks mentioned above, but also intergovernmental international organizations (the IMF and World Bank, in particular) and private bodies with regulatory functions, such as the International Accounting Standards Board (IASB) and the International Auditing and Assurance Standards Board (IAASB), one of the International Federation of Accountants' (IFAC) technical committees. This article aims to analyse the mutual interaction between global financial standards established by organisms corresponding to different models of global administration. What kind of connection links rules which have been developed by different types of global regulators? Is there competition between global financial standards originating from different bodies or are these standards mutually reinforcing? How are conflicts between global rules solved? The analysis will seek to answer such questions by examining three possible ways of interaction between global financial standards. In the first place, I will look at the trend towards a codification of global financial standards, the most obvious product of which is the development of the FSF's "Compendium of Standards". Secondly, the incorporation of standards established by private bodies within regulatory regimes referring to public bodies will be taken into account. Thirdly, I will examine if, and to what extent, the emergence of new mechanisms for the assessment on countries' compliance with global financial standards may result in the prevalence of some global rules over others.

Hilde Caroli Casavola (2006) "Internationalizing Public Procurement Law: Conflicting Global Standards for Public Procurement", Global Jurist Advances: Vol. 6: No. 3, Article 7.
http://www.bepress.com/gj/advances/vol6/iss3/art7

ABSTRACT:
International standards and rules increasingly apply to public procurement. Overlapping sets of norms, however, may generate complex relationships between existing disciplines and, even, conflicts of law. On the one hand, international organizations apply several common procurement

standards. The WTO Government Procurement Agreement (GPA), the World Bank Procurement Guidelines and several conventions and bilateral free trade agreements set forth a number of basic principles, such as transparency, fairness and participation. On the other hand, however, each organization and procurement standard-setting body elaborates its own, peculiar procedural norms. The main example consists in non-discrimination mechanisms, in rules regarding access to competitions, qualification conditions and award criteria. The existence of a number of procurement standard-setting bodies raises the following main issues: what are the implications of the differences among relevant substantive and procedural models? How to address and solve potential conflicts between incompatible international public procurement standards and the underlying one between the different organizations and financial institutions? The Author finds that sometimes the rules deriving from different internationalizing sources are congruent and compatible (or even identical). For the most part, conflicts or incongruities between international procurement rules are caused by an absence of mechanisms for adapting or reconciling the specific methods used by different supranational bodies' to protect their interests. The conflict is caused in applying identical principles and is not, therefore, irresolvable. As a result, in the cases considered, a reconciliation of those conflicts of rule cannot disregard an all-inclusive consideration of the significant principles, common to the various regimes.

Alessandra Battaglia (2006) "Food Safety: Between European and Global Administration", Global Jurist Advances: Vol. 6: No. 3, Article 8.
http://www.bepress.com/gj/advances/vol6/iss3/art8

ABSTRACT:
This article aims at mapping out the existing relationships across three levels of decision making, framing an hypothesis on the functioning of the system. Inter-institutional relationships across different levels of decision making in the area of food safety regulation can be compared to a sandglass the two poles of which are constituted by, respectively, the international and the national legal orders, with the European one standing in the middle. At each turning of the sandglass, the sand flow is "filtered" through European law. This suggests that European institutions are actively engaged in both the bottom-up and the top-down processes of implementation. The paper suggests a model for approaching the trends driving European policies in the area of food safety regulation in both international and national arenas.

Marta D'Auria (2006) "Emissions Trading and Polycentric Negotiation", Global Jurist Advances: Vol. 6: No. 3, Article 9.
http://www.bepress.com/gj/advances/vol6/iss3/art9

ABSTRACT:
The Kyoto Protocol not only establishes specific deadlines and quantitative objectives for the reduction of greenhouse gases, but also provides for so called "flexibility mechanisms". Among the different mechanisms envisaged in the Protocol, the one destined to play a central role is "emissions trading". For national regulators, global rules provide, at the same time, limits and opportunities. The limits are established by means of binding pollution-reduction objectives; the opportunities stem from the incentives to cooperation among different actors, provided for by the

new rules. As some scholars observed, "there is a redrawing of the borders of the public sphere": public entities accomplish some tasks, but leave other activities to private entities. The pollution market plays a central role, since it gathers, in the same place, different players, who share a common goal - the achievement of agreed global environmental outcomes - that can be attained through regulation. In this context, the paper analyses three main aspects: firstly, the choice of market-based instruments, that mark the shift from "command and control" to a new type of regulation; secondly, the roles and tasks of the different actors involved (public powers and private entities) and the relationships among them, both within national boundaries and in the new global market; thirdly, the controls and sanctions provided for in order to create an integrated system of environmental protection. The Author argues that the degree of effectiveness of the measures analysed in the paper depends upon an organized flow of information as well as on clear mechanisms of accountability, both at national and international levels.

Mariarita Circi (2006) "The World Bank Inspection Panel: Is It Really Effective?", Global Jurist Advances: Vol. 6: No. 3, Article 10.
http://www.bepress.com/gj/advances/vol6/iss3/art10

ABSTRACT:
The article analyses the role of the World Bank Inspection Panel. Following a brief introduction on the history and rationale for the creation of the Panel, the paper overviews the powers, mandate, organisation and operating procedures of this body. It, then, examines the Panel's decisions in the decade since its creation. This empirical basis of the paper provides the background against which to address, the following questions: what is the Panel's actual legal status? Is it a judicial, quasi-judicial body or something else? Is it really independent of the World Bank? Is the Panel's day-to-day operation consistent with its statutory objectives? In conclusion, is it really effective?

Bruno Carotti and Lorenzo Casini (2006) "Global Administrative Law: Bibliography", Global Jurist Advances: Vol. 6: No. 3, Article 11.
http://www.bepress.com/gj/advances/vol6/iss3/art11

ABSTRACT:
Bibliographic references.