Global governance is not democratic. Neither is it entirely undemocratic. For example, within the World Trade Organization (WTO) formally all Member-states have equal power over decision-making. The WTO’s dispute settlement body acts to enforce the rule of law over so-called ‘power politics’. The WTO’s secretariat organises regular meetings with civil society groups. And, resources are spent on facilitating transparency, including putting a vast amount of official documentation online. However, quite simply there is vast power asymmetry between WTO Member-states. This article side-steps the classic response to such dilemmas – where the debate hinges on how much or little the institution is able to ameliorate realpolitik – and, instead, asks what role the vestiges of ‘democracy’, as defined here, play in the WTO. Drawing on the work of Ernesto Laclau and Chantal Mouffe, amongst others, the argument is made that the discourse of democracy embodied in the WTO, as the article demonstrates, reflects the wider process through which the institution is legitimated as the body of global trade politics. This has implications for understanding not only how global governance is discursively formed, but also whether civil society groups critiquing the WTO threaten or may, by accepting the premise of its predominance in global trade politics, be actually strengthening the WTO.

Democracy has currency even where governance shifts to a level lacking its own demos. Rooted in national territories with clearly defined borders and citizenship, democracy has however managed to claim a new relevance in the world of global governance. The findings presented in this article are in answer to a paradox noted within the social science literature on the World Trade Organisation (WTO) and termed here as the democratic dilemma of the WTO. This dilemma may be summed up as ‘To what extent is the WTO democratic?’, and is provoked by the dual presence of ‘democratic’ aspects within the WTO institutional structure and ‘power asymmetry’ between the Member-states. However, as the article argues, rather than asking ‘to what extent is the WTO democratic?’, much can be gained by asking what role apparent vestiges of ‘democracy’ play within the discursive constitution of a global political entity such as the WTO.
The literature on the WTO can be characterised as approaching its object of study as a ‘legal-institutional arrangement’. Whilst the WTO is an ‘institution’, the article problematises this dominant approach for questions left unanswered regarding the series of social practices through which that ‘institution’ is made possible. The WTO is a significant political project that far exceeds the jurisdiction of earlier attempts at ‘multilateral trade governance’ – the most cited example being the General Agreement on Tariffs and Trade. WTO agreements impose conditions on areas of policy making previously considered the exclusive domain of domestic governments within nation-states. To understand how the political phenomena of the WTO is made possible, the article utilizes a discourse theoretical perspective that is able to see the WTO as a sedimented discourse, placing emphasis on the contingent series of social practices through which it is given meaning as ‘body of multilateral trade governance’.

On a formal level, as will be argued, the WTO institutional structure contains many of the features denotive of dominant democratic ideals, including: equal status and equal access for all Member-states to decision-making mechanisms (e.g. ‘one member-one vote’); disputes resolved via the rule of law; and accountability (transparency). Much of the literature has, however, acknowledged the role of ‘power asymmetry’ between Member-states in determining the outcome of WTO negotiations. This is explained within the literature by reference to disparities in the ‘material resources’ of Members, where weaker parties suffer due to being unable to sufficiently calculate their ‘national interest’ or offer side-payments and sanctions in order to direct consensus. The disadvantaging effects of such ‘resource disparities’ are exacerbated by an actual reliance on informal (pre-formal) negotiations that sidestep the equalising norms within the formal procedures, according to these studies.

Aware of both a formal structure denotive of ‘democracy’ and an actual praxis reflective of ‘material power’, the literature contains the question ‘To what extent does the institution overcome power asymmetry?’ This is the democratic dilemma. It is present within debates concerning how to ‘reform’ the WTO – e.g. more ‘transparency’; greater observer status given to ‘non-governmental organisations’ – and underlies the critiques in which advocacy groups characterise the WTO as the product of elite business ‘interests’, and the WTO Secretariat produces publicity materials specifically intended to counter the claim that it is ‘undemocratic’.

The article uses a discourse theoretical perspective to ask what role ‘democracy’ plays within the discursive operation of the WTO. In so doing, I argue that the series of meaningful social practices brought together within the operation of the WTO may be accurately characterised as a ‘Global democratic’ discourse. That discourse becomes increasingly sedimented as an imaginary to the extent that other political phenomena can only achieve intelligibility within that particular discourse. Current developments where critics of the global economy timetable their demands around WTO meetings suggests that the move from myth to imaginary is complete. Although such protests may ostensibly be critical of the WTO, by targeting it as the natural body of trade contestation, they may in fact be supporting it if working within the discursive framework through which it is made possible. Understood within a discourse theoretical perspective, this development will have consequences stretching beyond the depoliticisation of the WTO’s identity as ‘body of multilateral trade governance’. Firstly, as will be argued, it depoliticises the question of the WTO’s jurisdiction over that ‘trade’. Secondly, by this initial depoliticisation, the remaining ground for contestation moves to the question of what is ‘trade’. Thirdly, how this
contestation takes place is limited if it is only possible within the particular discursive formation of the ‘WTO’. The space for debate, as such, will be shaped by various concepts operating within the discursive formation of the WTO, such as ‘market-led’, ‘private capital’, ‘efficiency’, and so on. However, to approach this argument, it is necessary to first lay out the methodology required for a discourse theoretical perspective.

**Discourse theory as research strategy**

The concept of methodology is potentially problematic within discourse theory, leading to what Howarth has called the ‘methodological deficit’ of discourse theory. The roots of this problem lie in discourse theory’s critique of methodology as objectivist, arguing that methodology cannot be seen as neutral or autonomous from the social practices to which it is applied. Discourse therefore rejects the notion of methodology as rigid, acknowledging a significant degree of construction that embeds methodology within wider social practices and, thus, discourse. Likewise, the researcher cannot be said to be external to their object of study. However, rather than denying the possibility of methodology, it is this ontological position that provides the cornerstone of the tool kit of theoretical presuppositions which give discourse theory its methodology.

As used here, discourse theory refers to what is more specifically labelled either ‘post-structuralist’ or ‘post-Marxist’ discourse theory, that develops the understanding of social formations and power developed by Derrida and Foucault, and brought together into a theoretical schema within the writings of Laclau & Mouffe. All political phenomena are dependent upon a particular form of social organisation. For discourse theory, all social practices/objects – the content of social organisation – are understood as ‘meaningful’, which is to say that they are contextual, relational and contingent. Social organisation – the means by which political phenomena is made possible – takes place within a meaningful world. This is not to question the existence of a ‘real’ world, but to acknowledge that how one understands that ‘reality’ can only ever be articulated through language. The discursive basis of all political phenomena can be further illustrated with reference to the ideational historian Quentin Skinner.

In considering the relationship between language and political phenomena, Skinner argues that political change is dependent upon the links between words and concepts being, as it is, historical, contingent, and subject to change. Principally, he argues the politically contingent nature of the word-concept relationship, illustrating his account with various examples of words that have come to experience radical changes in the concept to which they are related. Skinner points to the role of language in reflecting the social world, referring to disputes over linguistic usage as often mirroring wider socio-historical disputes. But, equally Skinner sees words as having a supportive role for the world in which they are used, in upholding complete social philosophies. Language, thus, is far more than just a mirror. The act of labelling, of defining something, attributes a certain meaning to and, in so doing, it confines that something by the particular meaning. To define oneself as ruler is to provide power, but it equally creates a cage of associated meanings with various responsibilities and expectations regarding how a ruler is understood to behave. That
is to say, social meaning cannot be understood as simply reflective of power. Furthermore, the role of language within social organisation suggests that any distinction between the two is misleading, so that the social world and language are, in fact, one and the same. Discourse goes beyond the linguistic, however, to refer to the overall chain of practices constituting different social and political objects – such as an institution, or a treaty. However, the term ‘discourse’ requires further definition.

Central to discourse theory is the argument that social organisation takes place within, and is constituted by, discourse. The term ‘discourse’ exceeds any particular mode of communication, such as speech or the written word. The term ‘discourse’ is therefore used in an extremely wide sense, well beyond the narrow confines of ‘rhetoric’. Hajer defines discourse as ‘an ensemble of ideas, concepts, and categories through which meaning is given to phenomena, and which is produced and reproduced through an identifiable set of practices’. Important to this definition, as for Laclau, is the materiality of discourse. Debates around the regulation of the trade in pharmaceutical drugs provide a good example of the materiality of discourse with regard the operation of the WTO. Something as tangible as a pharmaceutical drug is a discourse, in as much as it is subject to a series of ideas, concepts and categories, such as ‘intellectual property’, ‘human rights’, ‘health’, ‘development’, ‘racial prejudice’, and so on. The political contingency of different meanings used in the debate around the administration and patenting of drugs used to control the AIDS virus are indicative of the materiality of discourse. The point is that a discourse theoretical approach is not idealistic, but is instead concerned with the operation of very concrete social practices.

The WTO is extremely suitable for a discourse theoretical approach because of the active process in which concepts such as ‘tradeable commodity’ are being rearticulated with very real material consequences, as in the case of current debates around trade-in-services and the definition of a ‘tradeable service’. Discourses are transient and multifaceted, and therefore cannot be described as static systems. However, discourses do reflect a ‘certain regularity in the particular ideas, concepts, and categories’ through which phenomena are made possible. In other words, discourse refers to the role of meaning within social organisation. And, because discourse is contingent, relational and context-dependent, it is historical. That is to say, the particular discourse that gives meaning to, and therefore makes possible, a particular form of social organising, is itself the product of forces that exceed that particular moment of social organisation which are, however, not transcendental but historically-formed. Discourses are the product of articulation, what Laclau and Mouffe define as ‘any practice establishing a relation among elements such that their identity is modified as a result of the articulatory practice’. In other words, articulatory practice is that which establishes a chain of relationships between different social practices/objects (elements) such that together they form a social practice/object distinct from each of their original separate states. Or, to attempt another re-wording, all social practices are articulatory in that they are made possible via being based upon a series of other social practices, all of which are meaningful, and therefore may be called ‘discourse’. Articulatory practice is simply the process by which social practices/objects (discourses) like, for example, ‘intellectual thought’, ‘private property’ and ‘rights’ are combined to form a new discourse of ‘intellectual property rights’ that contains elements of the separate discourses but also possesses new meaning that exceeds those original discourses.
Any single social practice/object, as discourse, is therefore constituted via a particular formation of other discourses, and thus can be called a ‘discursive formation’. The contingent nature of discourse means that any attempt to trace out a particular discursive formation places emphasis on both the ‘creation, disruption and transformation of the structures that organise social life’. It is this interest in moments of change and stability that makes discourse theory useful as a tool for explaining political phenomena. Torfing states: ‘[T]he formative order of discourses is not a stable self-producing structure, but a precarious system, which is constantly subjected to political attempts to undermine and/or restructure the discursive context in the course of history’. That is, as constituted by a system of relationality between different social practices/object which are themselves discourses, any one discourse will be forever subject to the contingency upon which it is constituted. Yet, political phenomena are typically characterised by at least the appearance of stability. To understand how this is possible, it is useful to view discourses as sedimentations.

Discourse changes due to competing discursive forces that attempt to alter the way in which meaning is constructed and, thus, how society is organised. How this occurs will be considered shortly, but suffice to say that any discourse will be the product of a struggle for meaning. Meaning is the product of a series of political battles, with any apparently stable discourse only appearing as such because it is the sedimentation of a string of previous battles. Discourse, as constituted via a chain of relations constructed between other discourses, is constituted through the sedimentation of these other discourses and, thus, we can talk about social practices/objects as sedimented discourses. Sedimentation can be understood as similar to Freeden’s concept of ‘decontestation’ within his analysis of ideology and political concepts. Political concepts such as ‘liberalism’ or ‘conservatism’ only achieve meaning via a decontestation of the word-concept relationship, so that one can claim ‘This is what liberty means, and that is what justice means’ (emphasis in original). Political concepts, for Freeden, provide the meaning by which individuals gain the ability to think and act within the political world they inhabit. Actors within a liberal-democratic state constric their actions via their understanding of the concepts ‘liberal’ and ‘democratic’. However, this creates an inerradicable tension. ‘While the very nature of political concepts lies in their essential contestability, the very nature of the political process is to arrive at binding decisions that determine the priority of one course of action over another. Political action is dependent upon decontestation being possible because political phenomena – as institutions and decision-making structures – operate via aggregates and averages rather than difference. Sedimented discourses are thus the sin qua non of political phenomena.

As the regular appearance of certain ideas, concepts and categories, discourses may be identified through close ‘reading’ of the political phenomena under investigation. Any source will be a discourse in itself, as constituted within a series of meaningful social practices (according to the theoretical presuppositions of discourse theory). Firstly, this requires a multi-data approach, in which the researcher reads multiple sources. Secondly, if it is not possible to approach the ‘real’ unmediated, any source will be inevitably partial. This is not a problem for a discourse theoretical analysis, because rather than attempting to find ‘truth’, it is interested in the discursive formations through which various phenomena are made possible, which are necessarily meaningful and, therefore, partial. In the case of the WTO, the analysis
began via working through the social science literature in order to understand which concepts were dominant, such as the ‘single-package approach’ and the ‘dispute settlement mechanism’. Other sources included critical presentations of the WTO that placed an alternative emphasis on particular social practices within the organisation, such as the role of informal negotiations. This also exposed certain concepts present within accounts regardless of their particular position on the WTO. Additionally, it was useful to engage with material produced by the WTO Secretariat, that exhibited what it considered to be the most important concepts within the WTO. Very early on, certain similarities pointed to what has been described above as the ‘democratic dilemma’ of the WTO. The article shall now consider the ‘legal-institutionalist’ perspective that it argues is paradigmatic of the social science literature on the WTO, in order to explain how discourse theory approaches the WTO as an object of study.

**Approaching ‘democracy’ via a discourse theoretical problematisation of the WTO as ‘legal-institutional arrangement’**

Stating that the WTO *is* an ‘institution’ is to place emphasis on the set of formal rules, repetitive (formal and informal) practices, and decision-making bodies that structure political behaviour within its specified policy domain. Social science literature on the WTO is thus characterised by studies that provide a general overview of the particular legal-institutional arrangement understood as the ‘WTO’, or focus on the workings of particular agreements held within this arrangement, such as the General Agreement on Trade-in-Services (GATS), as well as topics such as: WTO negotiating practice and decision-making, disparities in the balance of power between member-states in the WTO, legal aspects, e.g. the Dispute Settlement Body; developing countries in the WTO; the role of non-state actors (e.g. ‘civil society’); the implementation of WTO agreements; and future reform of the legal-institutional arrangement. Though studies vary with regard their understanding of who constitutes an ‘actor’ and how ‘power’ operates within this framework, they remain within the basic paradigmatic position that the WTO is to be understood as a legal-institutional arrangement.

Understood thus, the democratic dilemma is approached via looking at the legal-institutional arrangement and highlighting features that support or contradict a particular concept of ‘democracy’. As done within the literature, this means attempting to ascertain the extent to which power – understood as ‘material power’ – is ameliorated by the legal-institutional arrangement. Disagreement over the term ‘democracy’, as well as how one measures ‘material power’, leads to a multiplicity of studies spread across a spectrum between ‘democracy’ and ‘material power’, reflective of the debate around ‘norms’ in International Relations literature. The problem is that just as the term ‘democracy’ eludes definitive definition, so to does the attempt to measure what *is* and *is not* ‘democratic’. The point is not to say that any such attempt is without merit, but that it inevitably operates within discourse, because it is a question ultimately embedded within a particular set of social practices. Therefore, the question should not be to what *extent* the WTO *is* democratic, but to what purpose features denotive of a wider social understanding of ‘democracy’ serve?

The object of study for a discourse theoretical approach is *discourse*. And, as such, the ‘WTO’ is understood as a *sedimented discourse*. That is to acknowledge firstly that the WTO represents the product of a string of political battles. This means
a discourse theoretical approach is interested in the process of sedimentation, in the
discursive formation of the WTO. Furthermore – because discourse is taken to be
contingent, relational and context-dependent – the WTO as discourse is understood to
be part of a discourse that exceeds itself. That is to say, a discourse theoretical study
of the WTO cannot focus on the WTO legal-institutional arrangement alone, or even
the social norms within that institution, because they are seen as part of a much wider
set of social practices. And, because all social practices are meaningful, it is taken that
the WTO is part of a much wider discourse. This is because any social practice – as a
discursive formation – is constituted via a potentially infinite and varied set of social
practices. Therefore, when asking what is an institution, discourse theory requires
emphasis on what series of social practices/objects are present within, and constitute
the overall social practice/object called an ‘institution’.

The WTO is an institution in as much as that institutional arrangement is made
possible via a particular sedimentation within the wider discourse. Where discourse
theoretical study focuses on the WTO institution, it is to consider this particular
sedimentation. An institution is only made possible via a particular set of sedimented
social practices. These practices – which are meaningful and thus are discourse –
determine the identities of actors and objects within that set of practices, within that
polity.

The ‘Democratic’ aspects of the WTO

What this article calls the ‘democratic dilemma of the WTO’ hinges upon the
argument that the WTO institutional structure contains features denotive of dominant
democratic ideals. In its most basic sense, ‘democracy’ may be defined as a ‘political
community in which there is some form of political equality among the people’
(emphasis in original). Similarly, Weale provides a minimal definition of democracy
as where ‘important public decisions on questions of law and policy depend, directly
or indirectly, upon public opinion formally expressed by citizens of the community,
the vast bulk of whom have equal political rights’. Those aspects of the WTO
institutional structure that are denotive of ‘democracy’ relate to a mixture of different
models. However, this article is not concerned with measuring to which model the
WTO most adheres, through which it could be most described as a ‘democracy’, or
‘proto-democracy’. That is because this article is interested not in the concept
of democracy, but in the discourse of ‘democracy’. The difference is fundamental.
Democracy as a concept is typically used to label a particular institutional design for
decision-making within the nation-state. Different models of democracy thus refer to
different institutional designs. In contradistinction, a discourse of ‘democracy’
possesses no specific content in itself, but refers to a set of meaningful social practices
through where ‘democracy’ is discursively used to justify/legitimate political action.
A discourse of ‘democracy’ means that it is possible to identify, within a political
phenomena, a series of ideas, concepts and categories that collectively may be said to
evoke a democratic ideal. Naturally this will be historically contingent, as it is
discourse. What are to be presented here as the ‘democratic aspects’ of the WTO are
not in themselves necessarily ‘democratic’, but do serve as constitutive parts of a
‘democratic’ ideal. It is these aspects that provide the article with an initial argument
that a ‘democratic’ discourse is at play within the discursive formation of the WTO,
as parts of its conditions of possibility. The different aspects can be summarised here
as: equal status and equal access for all Member-states; the rule of law; and
accountability (transparency). Each of these aspects may be said to be part of a ‘democratic’ ideal, and is evident within the formal institutional structure of the WTO, the social science literature on the WTO, and in material produced by the WTO Secretariat.

1) Equal status for all Member-states within WTO decision-making mechanism

In comparison to other international economic organisations, particularly those of the Bretton-Woods bloodline – the International Monetary Fund (IMF) and World Bank, the WTO does not formally utilise weighted voting.\(^{48}\) Despite the potential difficulties of achieving agreement amongst a membership now 149 strong, each of those nation-states is formally equal in decision-making – the organisation operating on a ‘one member-one vote’ basis. This sovereign equality appears yet stronger still when one considers that, in practice, all decisions taken thus far in the WTO have been taken not by vote – though the option exists – but by consensus.\(^{49}\) Though not the same as unanimity,\(^{50}\) this would appear to potentially give even the weakest state effective veto over any decision and power radically disproportionate to its current stake in world trade. This is because any state present at the time of decision-making potentially has the ability to withhold consensus.

The rules for decision-making in the WTO include a combination of procedures based upon: majority voting; unanimity; and consensus. Consensus is the dominant of these mechanisms.\(^{51}\) Interestingly, despite the provision for voting, and the requirement for a vote in specific circumstances, a vote has, to date, never actually occurred in the WTO.\(^{52}\) Discussion making in the various bodies of the WTO has taken place exclusively via consensus. This is not to say that consensus equates to actual equality between Members. There is a significant literature that discusses the practice of consensus within WTO decision-making as facilitating informal (pre-formal) negotiations which actually favour ‘material power’.\(^{53}\)

However, this article is not concerned with the actual operation of ‘consensus’, but the discourse through which it operates. How that discourse operates is suggested within publicity material produced by the WTO Secretariat where, for example, it is stated:

Decisions in the WTO are generally by consensus. In principle, that’s even more democratic than majority rule because no decision is taken until everyone agrees…It would be wrong to suggest that every country has the same bargaining power. Nevertheless, the consensus rule means every country has a voice, and every country has to be convinced before it joins a consensus. Quite often reluctant countries are persuaded by being offered something in return. Consensus also means every country accepts the decisions. There are no dissenters. What is more, the WTO’s trade rules, resulting from the Uruguay Round trade talks, were negotiated by member governments and ratified in members’ parliaments’.\(^{54}\)

The extent to which the WTO Secretariat explicitly argues that the WTO is ‘democratic’ varies but whilst it would be misleading to suggest that this claim is strongly articulated by either the WTO Secretariat or those Member-states typically seen as its core proponents (e.g. the USA, EU, Japan, Canada), the above passage
does give a sense of the possible discursive context of the WTO’s formal institutional rules for decision-making.55

In addition to formal decision-making rules in which all Members have equal standing within the WTO, the agreements produced within – and monitored by – the WTO are all multilateral and therefore equally binding to all Members within what is called the ‘single-package’ approach. In this respect, all Members are seen as equally responsible for WTO agreements. There are a few plurilateral agreements, but these exist in only specific issue-areas, and play only a minor part in the organisation.56

2) Equal access for all Member-states within WTO decision-making mechanism

The majority of councils and sub-bodies that make up the institutional structure of the WTO are plenary.57 Despite exceptions, participation in the majority of everyday decision-making within the WTO is formally open to the entire Membership. There is no smaller executive body for decision-making within the WTO. The nearest the institution came to one was the formation of the Consultative Group of Eighteen (CG-18), which existed briefly within the GATT from the end of the 1970s up until 1985, when it was disbanded.58 But, as suggested by its name, this group was at least formally no more than an advisory group which possessed no decision-making powers of its own. The WTO currently has no constitutional arrangement for the re-creation of such a group, and certainly not for an executive with decision-making powers. Therefore, on the whole, decision-making is formally participatory in the WTO. This is obviously important to the collective responsibility entailed within the democratic discourse of the WTO.

3) Rule of law.

WTO agreements are effectively ‘law as process’ through the role of the Dispute Settlement Body (DSB) in applying a legal process to the resolution of any disputes arising with regard to their implementation by Member-states.59 The DSB is one of the most senior bodies in the WTO institutional structure and as such represents a significant emphasis on WTO agreements as ‘law’. This is illustrated in the speech by then WTO Director-General Mike Moore, when he stated:

The WTO system is built upon the rule of law and respect for the sovereign equality of nations. Ultimately, it is an open, rules-based multilateral trading system, built on democratic values.60

The nature of discourse means that any concept will appear within more than one discursive formation, and therefore whilst ‘rule of law’ does not in itself denote ‘democracy’, it is arguably utilised within a ‘democratic’ ideal. How ‘rule of law’ fits into a discourse of ‘democracy’ within the operation of the WTO is illustrated in the above quotation, as a ‘democratic value’.

4) Accountability

Accountability – or what is commonly termed ‘transparency’ by the WTO Secretariat – is formally present with respect both the relationship between the institution and
Members, as well as that between the WTO institution and those external to the institution, such as ‘non-governmental organisations’ and the ‘public’.

‘Internal transparency’ typically refers to the role of the WTO in monitoring trade regulation within its Member-states, so as to ensure compliance with WTO agreements.\textsuperscript{61} This remains a point of contention within the literature on the WTO, where the informal mechanisms within the WTO like the ‘Green Room’ process are cited as examples of exclusion that mean not all Members are as actively aware of decision-making proceedings as others.\textsuperscript{62}

The logic of ‘External transparency’ – what the WTO defines as ‘keeping the public informed’\textsuperscript{63} – is embodied within a website that acts as a portal to various materials providing basic descriptions of the organisation, negotiations, Ministerial Conferences, as well as options to subscribe to a daily WTO e-mail newsletter, and read a majority of WTO documents online.

Important to this is also the relationship between the WTO and what are typically called ‘non-governmental organisations’. The WTO Secretariat organises a series of annual conventions called ‘public symposiums’, entry to which is open to domestic politicians, the media, NGO-representatives, academia, and other professionally-affiliated individuals. Significantly, several of the seminars listed within the programme of these events are organised by those organisations that are publicly critical of the WTO.

Although the question of to what degree the WTO is ‘transparent’ is contentious, without a definite measurement of what constitutes ‘transparency’, the WTO can point to these various entities as evidence of ‘transparency’.\textsuperscript{64}

\textit{The power of the WTO: The 'Global Democratic' imaginary}

In discourse theory, power is understood as something internal to social practices, and therefore it is seen as internal – and embedded within – discourse. It does not exist as a quantifiable or separate entity. Central to this question is the logic of \textit{hegemony}.\textsuperscript{65} The term ‘hegemony’ is rooted within Gramsci’s understanding of the term, as applied to working class struggle:

\[ \text{[The]} \text{ phase in which previously germinated ideologies...come into confrontation and conflict, until only one of them, or at least a single combination of them, tends to prevail, to gain the upper hand, to propagate itself throughout society – bringing about not only a unison of economic and political aims, but also intellectual and moral unity, posing all the questions around which the struggle rages not on a corporate but on a ‘universal’ plane, and thus creating the hegemony of a fundamental social group over a series of subordinate groups.} \text{66} \]

Laclau and Mouffe developed Gramsci’s understanding of hegemony and applied to their own understanding of social practices/objects as sedimented discourse. Discourses are sedimented from other discourses; formed from a \textit{field of discursivity}. Political projects, such as the WTO, are thus understood as made possible via hegemonic practices, whereby a series of discourses are re-articulated into a common
project that forms a new social order (or discursive formation). According to Laclau and Mouffe, present within any such formation will be antagonistic forces, as well as discourses (elements) that can be again re-articulated by opposed political projects. In the case of the WTO, its hegemonic formation – which is a sedimented discourse – contains a series of different discourses including, for example: ‘free trade’; ‘development’; ‘peace’; ‘rationality’; ‘efficiency’, and so on. All of these different concepts are contested by different political projects so that, for example, the concept of ‘development’ is articulated afresh within opposed political projects.

To acknowledge that such practice produces hegemonic formations with different degrees of sedimentation, Laclau utilises the concepts of myth and imaginary. Myth denotes the attempt to incorporate a series of different discourses (social demands, e.g. ‘development’, ‘free trade’) within one universal project. If the myth has proved successful so that the distinction between the different social demands has been effectively erased – so that, for example, ‘free trade’ = ‘development’ – the myth has been sufficiently sedimented so as to become an imaginary. As imaginary serves as the horizon – what is, effectively, the ‘benchmark’ – by which any social practice/object operating within that same social sphere of relations is structured. This structuring power means an imaginary becomes the means by which to determine whether something is eligible as, for example, ‘knowledge’. It determines the question of what is and is not intelligible (Howarth and Stavrakakis, 2000:16).

Although hegemonic practice typically refers to the type of discursive articulation representative of contestation between different political projects, the sedimentated character of discourse means that any social practice/object – as discourse – will be the product of a certain contestation, as made clear in the earlier comparison between sedimentation and Freeden’s concept of de/contestation. Consequently, sedimentation is both the product of the exercise of power but also the prerequisite for social phenomena, meaning that it is also the condition for power itself. In this sense, power is both productive of social order and embedded within that order (Torfing, 2005:20). This means that power is, for discourse theory, not something that any actor can ever possess.

Rather than stating that the various ‘democratic’ aspects of the WTO discussed above constitute it as a ‘democratic organisation’ – or even one that overcomes ‘material power’ – it is useful to consider how they might suggest the shape of the discursive formation through which the WTO is made possible. The claim – if even as an ‘attempt’ – to ‘transparency’ situates the WTO within a series of social practices that extend beyond the legal-institutional arrangement itself, hinting at the discursive formation through which it is made possible as a political phenomenon. The act of asking to what extent the WTO is ‘transparent’ or ‘democratic’ is more interesting for a discourse theoretical analysis than the question itself. This is because the act points to the shape of discursive formation through which the WTO is made possible. In consideration of what have been summarised here as ‘equality’, ‘rule of law’, and ‘accountability’, within the discursive formation it may be said is present a discourse of ‘democracy’.

To acknowledge the global collective identity present within the concept of the ‘single-package approach’, as well as ‘consensus’, ‘equal access’, ‘equal standing’ and ‘transparency/accountability’, this article suggests that this discursive formation
through which the WTO operates may be called a ‘Global democratic’ discourse. That is, the WTO is made possible via utilising a series of concepts related to the dominant ideal of ‘democracy’ within the social arena in which it exists. The article avoids naming this discourse a ‘Cosmopolitan democratic’ discourse because of the inherent association with a model for political decision-making, represented within Held.73

Conclusion – Depoliticisation of the WTO as ‘the’ body for global trade politics

The argument made in this article is, firstly, that understanding of the WTO as a political phenomena may be aided through analysis utilising a discourse theoretical perspective. The object of study for discourse theory is discourse. Discourse theory does not deny that the WTO is an ‘institution’, but it does assert that it is only thus via a process of sedimentation. The WTO is therefore a sedimented discourse. The value of this approach is that it questions what series of meaningful social practices are necessary in order for the WTO to exist. That is because discourse theory asserts that any political phenomena operates within a social system that exceeds itself. The WTO cannot be understood within its own terms, but must be understood as operating as part of a wider set of social practices. These practices are understood as discourse.

Secondly, the article has argued from its research that the WTO is made possible via what is described as a ‘global democratic’ imaginary. This imaginary suggests how the WTO has become established as the natural body for multilateral trade governance despite disagreement over the nature of that agreement. Thirdly, it is argued that whilst it is academically interesting to understand how the WTO is made possible, the implications of the research findings stretch beyond this curiosity to the question of how this imaginary effects the shape and contestation of that governance.

The ‘Global democratic’ discourse has become hegemonic, and thus an ‘imaginary’, to the extent that the ‘WTO’ has become the natural body for multilateral trade governance. This ‘global democratic’ imaginary has several implications for how one is to understand the operation of the WTO within the global political-economy.

Firstly, it may be understood as the process by which the WTO’s identity as ‘body for multilateral trade governance’ is being depoliticised. This identity is important in terms of defining the WTO as having jurisdiction over multilateral trade governance. This is because whilst the question of how to govern may be openly contested, and thus still politicised, the more basic question of which ‘body’ should be the forum for organising such governance is less visible.

When the WTO was formally created in 1995, it emerged at the end of what had been fifteen years in which there was uncertainty over the survival of the multilateral trade regime.74 In the 1970s, the GATT process faced a serious challenge to its hegemonic role in the regulation of global trade tariff arrangements due to the new-found enthusiasm of the ‘Global South’ in the United Nations Conference on Trade and Development (UNCTAD), allowing it to appear as a genuine counter-weight to GATT, presenting an alternative institutional arrangement to facilitate global trade. The new-found confidence of primary-commodity exporting countries, following the success of OPEC, created an environment in which attempts were to
establish the New International Economic Order (NIEO), part of which included UNCTAD taking a far more prominent role in the regulation of multilateral trade (Cohn, 2002:109-10). If successful, this would have created a very different type of multilateral trade regime because, at that time, UNCTAD was much more representative of nation-states from the ‘Global South’ than the US-led GATT.

By contrast, the WTO has increasingly emerged as the body for multilateral trade governance. This is evident within the campaigning of advocacy groups arguing, for example, the environmental costs of international trade, who timetable their campaigns to coincide with WTO institutional meetings. Understanding discourse as exceeding any one political phenomena, it is then perhaps unsurprising that the ‘global democratic’ imaginary should work to not only sediment the WTO as the natural body for multilateral trade governance amongst nation-states, but also that it should increasingly become the natural space for global trade contestation amongst non-state actors.

Secondly, by this depoliticisation, the remaining ground for contestation moves to the question of what is ‘trade’ and how it should be ‘governed’. Current negotiations to expand the WTO’s General Agreement on Trade-in-Services (GATS) involve a rearticulation of ‘trade’ so that the term ‘tradeable commodity’ is applied to a growing sphere of social life. The questions of whether or not education and health care may be termed ‘trade’ are at the centre of campaigning against the expansion of GATS. However, as stated, if all social practices are understood as meaningful, the particular discursive formation will determine the identities of actors and objects within that the set of social practices, as well as what is politically possible within those practices. This means that the WTO as a sedimented discourse is not a neutral space for debate, but will structure what is possible within its set of social practices.

Therefore, thirdly, the discursive formation of the WTO impacts upon political action that exceeds the WTO institution. Though this article has focused on a ‘global democratic’ imaginary at play within the operation of the WTO, arguably one may identify additional discourses such as ‘the logic of the market’ or ‘efficiency’. Such discourses will help condition what is possible within the WTO. This is evident where despite advocating quite different demands, critics of the WTO are typically defined by the WTO Secretariat and within the media as either ‘protectionists’ or ‘anti-globalisation’. Whilst arguably such labels may be explained as ‘mis-representations’ reflecting a defensive WTO Secretariat and certain ‘biases’ within the media, they do indicate how different demands are made illegitimate via a particular discursive formation. Both identities of ‘protectionist’ and ‘anti-globalisation’ appear ridiculous, as naïve and unaware of the inevitable realities of the modern world. Consequently, they are dismissed from serious consideration. This is somewhat ironic considering the amount of research produced by such advocacy groups upon whom these identities are applied, that attempts to contest substantive issues regarding the governance of multilateral trade, rather than necessarily rejecting global trade.

Notes

1 Where power asymmetries are discussed in social science literature on the WTO, it is typically understood as material and something to be possessed by nation-states.
2 Gross disparities in the ability of different Member-states to influence negotiations in the WTO are commonly acknowledged within social science literature on the WTO. For example, see: Bernard Hoekman and Michel Kostecki *The political economy of the world trading system – the WTO and beyond* (Third edition) (Oxford: Oxford University Press, 2009); John Jackson *The World Trade Organization – Constitution and Jurisprudence* (London: Royal Institute of International Affairs, 1998). The argument is most strongly asserted within the literature critical of the WTO, that views the WTO as led by the richer Member-states. Good illustrations of this perspective include: Aileen Kwa Kwa (2003) *Power Politics in the WTO* (Second Edition) (Bangkok: Focus on the Global South); Graham Dunkley *The Free Trade Adventure – The WTO, the Uruguay Round and Globalisation – A Critique* (London: Zed, 2000). The dual presence of both ‘power asymmetry’ and ‘sovereign equality’ (where all Member-states are formerly argued) is most acutely observed by Steinberg, who characterises the paradox as the WTO’s ‘organizational hypocrisy’, which he sees as essential to its existence (Steinberg, 2002). Richard H. Steinberg ‘In the Shadow of Law or Power? Consensus-Based Bargaining and Outcomes in the GATT/WTO’, *International Organization* (2000) (56:2): 339-374.

3 The ‘influence’ of a particular Member-state within the WTO is seen as more than a simple matter of ‘wealth’, or percentage of overall trade, but as also affected by the stake a Member has in the particular matter under discussion. This is discussed by Curzon and Curzon with regard to the history of the GATT process. Gerard Curzon and Victoria Curzon ‘GATT: Traders’ Club’ in Robert Cox and Harold Jacobson (eds) *The Anatomy of Influence – Decision Making in International Organization* (New Haven: Yale University Press, 1973): 298-333. However, much of the literature emphasises the role played by ‘material resources’. Weaker Members are seen as lacking the sufficient resources necessary to achieve an influential presence in WTO bodies. Dunkley argues that richer Members are better able to provide a sufficiently large body of personnel to sustain strong representation in all WTO bodies. Dunkley, *op. cit.*, Ref.2, p.217. See also: Richard Blackhurst and Bill Lyakurwa and Ademola Oyejide ‘Improving African Participation in the WTO’, Paper Commissioned by the World Bank for a Conference at the WTO on 20-21 September 1999; Amrita Narlikar ‘WTO Decision-Making and Developing Countries’, *South Centre TRADE Working Papers* 11, November 2001; Kwa, *op. cit.*, Ref.2.

4 Within the literature, consensus is seen to favour mediation that involves pre-formal negotiation arenas in which ‘power asymmetries’ have greater influence than is formally allowed within the WTO institution itself. See Mary Footer ‘The Role of Consensus in GATT/WTO Decision-Making’, *Northwestern Journal of International Law and Business* (1997)(17:2/3):653-680.


12 Torfing, *op. cit.*, Ref.9, p.13, 18; Howarth and Stavrakakis, *op. cit.*, Ref.10, p.3.


14 Ibid, p.11.


16 Howarth and Stavrakakis, *op. cit.*, Ref.10, p.3.

Torfing, op. cit., Ref.9, p.18.

Hajer, op. cit., Ref.17, p.301.


Torfing, op. cit., Ref.9, p.10.


Ibid, p.96.


Ibid.

Ibid, p.3.

Ibid, p.76.

Hansen and Sørensen, op. cit., Ref.7, p.99,100.


Dunkley, op. cit., Ref.2; Kwa, op. cit., Ref.2.


The literature varies on the extent to which other actors are seen as important in the operation of the WTO, though I have not found any studies attempting to argue that the only actors that matter are, in fact, nation-states. This is despite the Marrakech agreement that serves as the WTO’s constitution, that
states that the only ‘actors’ that matter in the WTO are the Member-states. Many studies adopt a pluralist view in which the WTO is the product of multi-level governance. See Hoekman and Kostecki, op. cit., Ref.2, p.120.

43 It is worth noting Jane Ford’s analysis of the WTO, in which a social constructivist analysis is applied. Jane Ford A Social Theory of the WTO – Trading Cultures (Basingstoke: Palgrave Macmillan, 2003). Ford argues that disparities between the ‘material power’ of Member-states have been partially ameliorated by developing country Members who have actively re-constructed an identity for Members in which norms have been used to tie the more materially powerful developed country member-states closer to a rules-based system than they would have accepted otherwise. This cultural change has formed what Ford calls a ‘Self of multilateral traders’, in which member-states have felt a reduced distinction between their various national interests. Developing and developed member-states have realised combined interests as ‘multilateral traders’. In Ford’s analysis, the collective identity produced via the WTO has overcome ‘material power’ so that developing country member-states have more power than they would without the WTO.


49 See: Dencho Georgiev ‘The Decision-Making Process in the World Trade Organization’, in Kim Van der Borght and Eric Remacle and Jarrod Wiener (eds) Essays in the Future of the WTO: Finding a New Balance (London: Cameron May, 2003), p.29; Kwa, op. cit., Ref.2, p.36. No formal vote has ever taken place in the WTO. The Agreement establishing the WTO demands that, for certain decisions including waivers, a vote must take place. Although waivers have taken place, the WTO makes no mention of a vote having taken place. Though it is, of course, possible that the related documents simply fail to mention the vote, it is significant that in an online WTO database which includes 60% of documents, extensive searching found that, beyond those documents establishing general voting guidelines, it is only WTO press releases which appear to use words such as ‘vote’. And, importantly, these are used only in the context of a sentence such as the accession of a new Member-state with a comment which states, for example, the accession to be a ‘vote of confidence in the WTO’.

50 Unanimity is when all the membership must agree, compared to consensus being amongst those actually present at the time and place of the decision-making process.

51 Article IX.1 of the WTO Agreement states: ‘The WTO shall continue the practice of decision-making by consensus followed under GATT 1947. Except as otherwise provided: where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting’ (Quoted in Jackson, 1998a:136).

52 Georgiev, op. cit., Ref.49, p.29; Kwa, op. cit., Ref.2, p.36.


54 Taken from: WTO 10 Common Misunderstandings about the WTO (Geneva: WTO Publications, April 2003), p.10.

55 The ‘democratic’ credentials of the consensus rule were more explicitly argued by the then WTO Director-General Mike Moore at a conference titled ‘Democracy and Free Trade’, held in Doha, Qatar on 26th April 2002. In his speech, Moore stated: ‘[N]o other body is as directly run by Member governments, or as firmly rooted in consensus decision-making. What the consensus rule embodies is the right to sovereignty, free choice, self-government – in other words “democracy” in its most basic sense. The WTO does not tell governments what to do. Governments tell the WTO. All decisions – from the creation of the GATT to last year’s launch of the Doha Development Agenda – have been taken collectively by the member governments themselves. No decision is taken unless all member governments agree, effectively every Member – from the largest to the smallest – has the power of veto. Even the enforcement of rules is undertaken by the members themselves. Sometimes enforcement includes the threat of sanctions but those sanctions are imposed by Members not by the organization. These are all features of a highly democratic organization and system…It is not a “world democracy” – in the sense of being a government of the world’s people – but it is the most democratic international body in existence today’. Extract from speech taken from ‘Democracy, development and the WTO’ (presented 26/04/2002), available via the WTO website: www.wto.org/english/news_e/spmm82_e.htm
Another exception is for those Members granted waivers, on grounds related to implementation problems. However, waivers are intended to be temporary, with the assumption that those particular Members receiving the waiver will accept the obligations of the Agreement within a specified period of time. The single-package approach came into play at the Uruguay Round establishing the WTO, pushed by the North, and is important because it demands that all tariff and non-tariff obligations signed within the multilateral agreements be accepted by all Members, placing the related obligations upon all Members. See: Narlikar, *op. cit.*, Ref.3, p.5; Jackson, *op. cit.*, Ref.2, p.44.

Those with limited membership include the Textiles Monitoring Body (TMB), the pluri-lateral committees, the dispute settlement panels and the Appellate Body. For more detail, see Gilbert Winham and Anna Lanošzka ‘Institutional development of the WTO’ in Alan Rugman and Gavin Boyd (eds) *The World Trade Organization in the New Global Economy* (Cheltenham: Edward Elgar, 2000), p.39. The dispute settlement panels and the Appellate Body consist of Members appointed through the General Council to fulfill the various functions of the judicial process of the DSU. Participation to the TMB is by appointment, given by the Council for Trade in Goods. And, the committees relating to pluri-lateral agreements involve only those members who have pluri-laterally signed up to these agreements.

See: Hoekman and Kostecki, *op. cit.*, Ref.2, p.65; Blackhurst, *op. cit.*, Ref.40, pp.33-35. Though not a decision-making body, the CG18 formed an important advisory body from its establishment as a temporary body in 1975 (made permanent in 1979) until its suspension in 1989, by which time it had grown to 22 members. ‘The number of annual meetings ranged from two to four. One of the most important features of the group’s work was that it was able to bring together high officials from a number of capitals. This greatly increased the value of its discussions and the force of its recommendations’ (Blackhurst, Ibid).

The DSB has no enforcement capacity itself, being Member-dependent. Enforcement is made via rulings granting the successful complainant Member-state permission to launch retaliatory trade measures against the offending Member. Cases may only be investigated if brought by a Member-state.


A central institutional mechanism for ‘internal transparency’ is the Trade-Policy Review Mechanism (Hoekman and Kostecki, *op. cit.*, Ref.2, p.73), which serves to review both domestic trade policy as well as various bi-lateral and regional trade agreements with respect to WTO agreements.


The WTO does not make the claim to be transparent, but relies instead on the claim that it is working to be transparent. This is evidenced within its main pamphlet intended for public consumption, called ‘Understanding the WTO’, where it states: ‘On 14 May 2002, the General Council decided to make more documents available to the public as soon as they are circulated. It also decided that the minority of documents that are restricted should be made public more quickly – after about two months, instead of the previous six. This was the second major decision on transparency. On 18 July 1996, the General Council had agreed to make more information about WTO activities available publicly and decided that public information, including derestricted WTO documents, would be accessible online’. Ibid.


Ibid, p.15.(Howarth and Stavrakakis, 2000:15)

Ibid.

Ibid.

Ibid.


David Held, *op. cit.*, Ref.46, p.353.