Ending (or Starting?) Trade Wars Via Blockchain

By Amy J. Schmitz[*]

Imagine if we could bypass "trade wars" through use of "smart contracts" built in the blockchain? Some argue that decentralized smart contracts could eliminate concerns about "hometown" laws and politics, to provide immutable agreements that are self-executing. Furthermore, some see the advent of theoretically stable cryptocurrencies such as Facebook's proposed Libra as means for eliminating vulnerable payment systems and streamlining smart contract execution. The problem is that disputes regarding smart contracts are inevitable, and parties will need means for dealing with smart contract issues. This harkens back to the advent of arbitration as means for facilitating trade and dispute resolution outside of the regulation or politics of the courts. With this backdrop, this paper explores development of blockchain arbitration and argues for context-specific online dispute resolution ("ODR") to efficiently and fairly resolve smart contract and cryptocurrency disputes. Indeed, blockchain ODR start-ups are already on scene, with a focus mainly on tokenized arbitration. While this has its merits, it remains unclear how this will result in effective and fair governance. Instead, this paper explores more nuanced ODR that harkens back to the foundations of arbitration and its role in supporting self-governance. Such on-chain ODR should respect the decentralized ethos of the blockchain, while remaining transparent and neutral to foster ethical resolutions. Furthermore, the paper considers whether there is need for an off-chain "check" on this system to ensure ethical standards to prevent corruption of the process.

This would build on my prior article (https://scholarship.law.missouri.edu/facpubs/726/)—and take the arguments much further in light of current events with respect to blockchain governance (for example, ECAF is no longer running blockchain dispute resolution, and Sagewise, also noted in the cited article from a year ago, has decided to "pivot").

Please let me know if you have questions or concerns.

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