

# CHAPTER VIII

## A results-oriented institution - political reinforcement and efficient process

312. In the previous chapter it is argued that new approaches to decision-making and perhaps some level of variable geometry in negotiations - and, therefore, in the WTO's legal structure - while not wholly desirable options, may need to be considered further. At the same time various less radical approaches could help facilitate consensus and the process of negotiations. These relate to the institution's delegate structures and consultative machinery. While juggling with structure and process will not resolve fundamental differences of substance, there is certainly room for more efficiency, deeper political and economic awareness and higher level participation in much of the WTO's work.

### A. ADVANCING NEGOTIATIONS IN A "MEMBER-DRIVEN" ORGANIZATION

313. One starting point is the notion of the WTO as a "Member-driven organization". While the WTO is no more Member-driven than the GATT, the assertion of Member domination of the business of the WTO, notably since the conclusion of the Uruguay Round, reflects a significant change in attitude. In part it is a response to the critics outside. The image of the WTO as a group of grey-suited, secretive and anonymous men dictating the future of entire countries from behind closed doors was always fanciful. Nevertheless, it has been important to demonstrate the truth, that it is governments alone that steer the trade body and are responsible for its decisions.

314. One drawback to the "Member-driven" approach has been some diminution in the role of the WTO Secretariat which had previously helped to provide a clear sense of direction for the system. At a practical level the Secretariat has always had the capacity to inject creative proposals into the negotiating processes of the GATT and the WTO. Sadly, it is a capacity that sometimes appears less welcome now than before (see Chapter IX). That is a loss to Members when their work is in difficulty.

315. However, facilitating negotiations also requires more practical measures at the organizational level. The WTO needs to be efficient, decisive, inclusive in its deliberations, attuned to the world outside and trusted. Structural changes in its organization cannot, alone, make it so. The delegate bodies currently in place are largely a reflection of the negotiating structure created for the Uruguay Round. They may still be appropriate. Nevertheless, they should be re-examined in the light of the need to streamline regular activity and reduce the burdens on small delegations. At the same time there are new levels of political engagement and high-level consultative machinery that would serve to give direction and drive to negotiating processes.

### B. POLITICAL INVOLVEMENT NEEDS REINFORCING

316. Remarkably, in an institution which political leaders everywhere claim as their principal vehicle of trade policy development, regular direct, formal, political involvement in the WTO is minimal - once every two years for Ministerial meetings and otherwise only when crisis threatens. Despite assurances to the contrary, ministers often devote far more time to bilateral and regional trade deals than to ensuring the multilateral system delivers worthwhile results. At the same time, recent experience suggests that only the direct participation of political leaders will provide the space and urgency for meaningful changes of position. So political has trade policy become, globally, that Geneva-based delegates seldom appear to have the flexibility, even on quite mundane issues, to move the negotiating process forward. On a day-to-day basis, the WTO has become too much of a talking shop.

317. Sessions of the Ministerial Conference currently take place every two years. This is too seldom and out of line with other major international bodies. Ministers should meet

annually. They should not be required to pursue lengthy agendas and conclude ground-breaking agreements every time. Ministerial meetings need to be demystified and expectations reduced; they should look more like the annual OECD Ministerial gatherings or those of the World Bank/International Monetary Fund. Outside of key negotiating periods, the agenda should require no more than a review of the state of the trading system, along with any routine decisions required at the Ministerial level. Preparation should be low-key; the essential objective being to get all WTO ministers together with an opportunity to bring their own trade priorities and challenges directly in front of the international community.

318. To help ensure ministers are engaged consistently - outside annual meetings - the Director-General should be required to report to ministers on key WTO developments, in writing - briefly, publicly and candidly - every six months. The intention would be to maintain political involvement and interest and send appropriate messages in a timely fashion.

319. While ministers of trade, agriculture and, perhaps, economy, should participate regularly in WTO developments, the system has need of support at the very highest levels. Political leaders must signal their expectations of the WTO in a broad political, social and economic context. A summit of world leaders - heads of government - should be held in the WTO every five years. Such a gathering would serve to reinforce commitment to the multilateral trading system. It would provide a platform for government heads to express any concerns. It would also serve to define a direction for future work and, when appropriate, to set an agenda for new negotiations.

**320. The Consultative Board therefore advises that Ministerial Conferences of the WTO should normally meet on an annual basis; that the Director-General be required to report to**

**ministers in writing on a six-monthly basis; and that a WTO Summit of World Leaders be held every five years.**

### **C. SENIOR POLICY-MAKERS SHOULD BE IN GENEVA MORE FREQUENTLY**

321. Except at times of particular negotiating intensity, senior policy-makers from capitals are also still too seldom in Geneva. Although many trade officials meet in regional or bilateral settings they seldom do so at the multilateral level. That is a loss to the system. This is especially so of developing country officials from trade, agriculture, development and planning ministries for whom, frequently, the financing of regular visits is lacking. It is precisely such officials who would benefit most from more extensive exposure to work in Geneva. It is also such officials who might contribute to more effective processes in the WTO and to sustaining positions fully in tune with those being pursued in capitals. It is absolutely crucial to the interests of all Members that there is coherence and coordination between positions taken in Geneva and government policies on the ground, notably in the context of economic regulatory reform and market liberalization. If poorer nations are to make the best of their WTO membership they must be fully and regularly present in Geneva, especially their senior officials.

322. Senior officials, from developed and developing countries alike, might be encouraged to attend General Council meetings every three or six months. Council sessions might be extended specifically for such capital-based officials to discuss general developments. Appropriate financing for least-developed country representatives would be necessary.

323. An alternative approach would be to construct a specific vehicle to accommodate senior officials' participation in Geneva. One possibility is the establishment of a senior level consultative body. Such a group existed for

many years in the GATT and was generally regarded as having value. In the case of the WTO, a consultative body might be pitched at the level of ministers or senior officials, or both. At the higher level, it might reasonably replace the informal “mini-Ministerial” format which is resented and often ineffective.

324. A consultative body would have neither executive nor negotiating powers. It would hold regular meetings to discuss the political/economic environment as well as current dossiers. When appropriate it would seek to provide some political guidance to negotiators. Above all it would give a political and economic context to the sometimes-insular proceedings of the WTO in Geneva. This proposal is very much in line with our view, expressed in Chapter IV, that the Director-General’s mandate on coherence in international economic policy-making should now be intensified and broadened.

325. How would the membership of such a body be constituted? Clearly it would have a restricted membership to be effective - an absolute maximum of 30. Some major trading nations would inevitably be permanent members. The majority of seats, however, would be filled on a rotating basis - drawing, for instance, from geographical areas, regional trading arrangements, or mixed constituencies like those used in the IMF and World Bank executive boards. Whatever the solution, the combination of meeting frequency and participation should allow for the maximum involvement of all Members, and especially the least-developed countries.

326. The consultative body would be restricted to representatives from capitals, perhaps accompanied by Geneva-based ambassadors. It would be convened and chaired by the Director-General whose duty would be to report to the entire membership on the detailed proceedings. One option, however, while restricting the right to intervene to current members of the body, would be to hold sessions in a format that could be observed by all other Members.<sup>45</sup>

**327. The Consultative Board advises that a senior officials’ consultative body to be chaired and convened by the Director-General should be established to meet on a quarterly or six-monthly basis. Membership should be limited and composed on a partly rotating basis. Funding should be available to ensure senior officials from the capitals of developing countries attend. When necessary, the consultative body could meet wholly or partially at ministerial level.**

#### **D. MAKING MINISTERIAL MEETINGS EFFICIENT AND PRODUCTIVE**

328. As already suggested, Ministerial conferences should be more regular and more routine. That does not mean they should be incapable of effective and productive work. At times they will need to take major decisions - including in the context of moving forward large-scale negotiating rounds. Much criticism has been directed at the conduct of recent Ministerial conferences in terms of their process and organization.

329. We do not believe a set of inflexible rules for the conduct and preparation of Ministerial conferences is the answer. On the contrary, the Chairman of the meeting and the Director-General, in consultation with the membership, should retain the maximum freedom to adapt procedure to circumstances within the limits of the rules already in place. However, there appears to be a serious lack of synchronization between the preparatory process in Geneva and the commencement of the Ministerial conference. There is a mismatch between official/diplomatic negotiations and the Ministerial process which too often takes two, or even three, days of a five-day Ministerial conference to adjust.

**330. Having already proposed the establishment of a senior officials consultative body, we would further propose that such a body meet immediately prior to Ministerial meetings to ease the working transition between the two levels.**

<sup>45</sup>It is worth noting perhaps that at meetings of the GATT “Consultative Group of 18” the member states of the European Union were present but did not intervene, leaving the EC Commission representative as spokesperson. That is also the case for most EC representation in WTO bodies.

331. Several possibilities should be seriously considered. For a start, the Director-General and the Chairman of the General Council should establish a close working relationship with the Chairman of the Ministerial conference at an early stage. Second, where it is clear that the meeting will need to cover a large agenda of negotiating issues, the practice of appointing “facilitators” should be reinforced. In particular, the appointments should be announced sufficiently early for them to be active almost immediately after the meeting convenes - but not so early that they detract from the final stages of the preparatory process in Geneva. The individuals chosen should be allocated to negotiating issues in which they have no national interest and they should be persons commanding wide respect. Other than that the appointments should be a matter of judgment for the Chairman of the Ministerial conference and the Director-General and should not become part of a further bargaining process.

332. It has been argued that the Director-General should chair Ministerial sessions. That is clearly an option. **However, the crucial point here is that the Director-General and Secretariat should have the capacity and the standing to be at the centre of negotiations during Ministerial meetings. Not only should Deputy Directors-General and divisional directors work closely alongside facilitators throughout the proceedings, they should be expected and encouraged to make proposals that will contribute towards the achievement of consensus.** That means a more assertive role for the Secretariat but one which requires of all WTO staff the continuous demonstration of neutrality and good faith.

## E. REGIONAL REPRESENTATION AND COORDINATION

333. One final organizational improvement that would rationalize some negotiating activity in Geneva would be extended coordination within regional groupings. Some existing groups - the African and ACP group, for instance - are

large and unwieldy and cover great variations in economic development and trade interests. Groups based on regional trade arrangements and other configurations may be more effective - though it is understood that many WTO Members have only the weakest links, if any, to such arrangements. Single-issue/single-commodity groups can also have a significant impact.

334. In general, however, with nearly 150 Members, the work of the WTO and especially its negotiating processes can only benefit from better coordination among nations with similar interests. As has been demonstrated in some regional trade negotiations - the Central American states in the Free Trade Area of the Americas talks, for instance - groups of smaller economies lacking negotiating capacity can sometimes be mutually reinforcing by assigning specific negotiating dossiers among themselves.

335. The issue is particularly relevant to the limited access (“Green Room”) meetings convened by the Director-General and/or the Chairman of the General Council. Such meetings are necessary and appropriate in forging the basis for wider consensus in negotiations. Considerable progress has been made with respect to such informal consultations in recent years. Greater care is being taken to ensure that these meetings are balanced, representative and accountable. We should build on this progress to provide even greater transparency, representativeness and accountability. One option is clearly to develop a constituency structure based on the representation of regional trade agreement and other regional groups. However it is done, the “report back” function of participants in any limited access meetings should be solid and fully transparent for those not attending.

**336. The Consultative Board advises that the Director-General should explore with the relevant groups the potential for increased coordination and group representation in restricted meetings and the support that the Secretariat might provide such groups.**