

CHAPTER IV

Coherence and coordination with intergovernmental organizations

144. The WTO was conceived as an independent international organization, expected to usher in “a new era of global economic cooperation” - to recall the language of the Marrakesh Declaration of 1994. In this sense the WTO was the first post-Cold War international organization. The bold purpose of developing an integrated, more viable and durable multilateral trading system, aiming at universal membership, appeared to leave behind previous differences as to how to organize world economic activity at the intergovernmental level.

145. The onset of a more intense era of “globalization” made the need for such a system more evident. Technological innovation in the spheres of transport and communications, as well as the remarkable development of global financial markets, has increasingly diluted the difference between the “internal” and the “external”. These trends diminish the importance of frontiers as natural barriers to trade. In this context, globalization can be seen as the process through which the world is “internalized” in the day-to-day life of countries and societies.

146. The need for codification and progressive development of positive rules of cooperation has been evident. The positive impetus for the negotiation of these rules is the “coordination benefits” that derive from avoiding the damage that the unilateral non-coordinated action of national governments can produce. This is the background of the transformation of the GATT into the WTO. The legal scope of the WTO is significantly greater than that of the GATT. However, it does not, and cannot, cover every policy area that touches on international trade and investment. Thus, there is need for “horizontal coordination” with other intergovernmental organizations.

147. It is to this issue that the present chapter addresses itself. The issue is worthy of review because the second half of the nineties and the beginning of the twenty-first century have been

characterized by a very different political environment to the one that led to the conclusion of the Uruguay Round. It is an environment in which a logic of fragmentation and conflict is pervasive and where questions regarding equity of the rules in the distribution of the “benefits of coordination” created by the WTO are constantly present. Hence, the trend is towards reduced political space for economic cooperation.

A. THE WTO IS WELL ENDOWED WITH THE INSTRUMENTS OF INTERNATIONAL COOPERATION

148. Coherence and coordination of the WTO with other intergovernmental organizations have to be seen in the light of the scope and functions of the organization (Articles II and III of the Marrakesh Agreement Establishing the WTO). The broad legal framework for this discussion are Articles III, V and VIII of the Marrakesh Agreement. Article VIII is the source of the legal personality of the WTO. Article V empowers the General Council to make appropriate arrangements for cooperation with other intergovernmental organizations that have responsibilities related to those of the WTO. Article III:5 refers to greater coherence in global economic policy-making and thus, cooperation, as appropriate, with the IMF and the World Bank. The WTO was set up as a *sui generis* intergovernmental organization; it is not a specialized agency of the United Nations. From an institutional point of view, the WTO was a successor of the GATT that, as a result of its origins, deriving from the 1948 UN Conference on Trade and Employment, was *de facto* a specialized agency of the UN. Hence, the establishment of the WTO in 1995 was accompanied by an exchange of letters between the executive heads of the UN and the WTO allowing for an orderly transformation. These letters provided for cooperative ties between the two international organizations to be set up as they ceased to have formal institutional links.

149. From a legal point of view there is one key linkage between the UN Charter and the WTO system that is worth recalling. Article XXI (c) of GATT 1994 deals with security exceptions and thus with the possibility of economic sanctions. This provision provides that WTO Members cannot be prevented “from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security”. The fact that the UN and the WTO are distinct international organizations and do not have the same membership explains the autonomy that the General Council of the WTO has in setting up cooperative arrangements with other international organizations. In the cooperative ties between the WTO and the UN, the fundamental interactions occur with UNCTAD, which has observer status in basically all the bodies of the WTO.

150. Aside from UNCTAD, decisions regarding cooperation agreements with other international organizations and of granting them observer status are guided by the potential contribution those organizations can offer to the activities of the WTO. Such is the case of World Intellectual Property Organisation (WIPO) (under Article 68 of the TRIPS Agreement), given its expertise and responsibilities on intellectual property. In the area of services the WTO has a cooperation agreement with the International Telecommunications Union (ITU) (Art. XXVI of GATS). An agreement with the Office International des Epizooties (OIE) (an observer in the Committee on Sanitary and Phytosanitary Measures) rests on the functional complementarities with that organization. The same can be said of the cooperative assistance of the World Customs Organization (WCO) in the work of the Committees on Rules of Origin and Customs Valuation.

151. The degree of cooperation can be strong when there is mutual legal recognition of the relevance of “horizontal coordination”. Such is the case in the relationship between the IMF and the WTO when balance-of-payments

problems lead WTO Members to take trade restrictive measures. Accordingly, the agreements between the IMF and the WTO (see below) provide for the participation of the Fund in the consultations carried out by the WTO Committee on Balance of Payments Restrictions, in accordance with what was previous GATT practice.

152. On the other hand, elements of cooperation can be quite loose as a result of decisions that clearly define jurisdictional differences and limits among international organizations. Such is the case of core labour standards. The Singapore Ministerial Declaration of 1996 clearly stated that the ILO “is the competent body to set and deal with the standards”, only noting that “the WTO and ILO Secretariats will continue their existing collaboration”.

153. In the case of trade and the environment there are linkage references in the legal texts of the Uruguay Round. Consequently, elements of cooperation exist between the secretariats of the WTO and the United Nations Environment Programme (UNEP), with a more recent opening to the secretariats of Multilateral Environmental Agreements (MEAs). Further horizontal cooperation will depend on the conclusions of the negotiations contemplated in the Doha Round, in which the relationships between existing WTO rules and specific trade obligations set out in MEAs, are being considered.

154. The guiding line for granting observer status to international organizations, as for cooperative agreements, is the contribution “horizontal coordination” can offer to the activities of the WTO. That is why observer status is not automatic, differs in accordance with the distinct responsibilities of individual WTO bodies, and is based on functional complementarities.

B. COOPERATIVE VENTURES AT THE PRACTICAL LEVEL

155. Cooperation with other intergovernmental organizations has recently focused especially on helping the WTO meet its obligations in the context of the special difficulties faced by developing countries.

156. One example is a new fund, called the Standards and Trade Development Facility, which provides grants and financial support for technical assistance projects to help shape and implement international standards on food safety, and plant and animal health. Established in 2002 by the World Bank and the WTO, this Facility, in cooperation with other international organizations (FAO, WHO, OIE, Codex Alimentarius), will be administered by the WTO. It aims to place developing countries in a stronger position to take advantage of the Agreement on the Application of Sanitary and Phytosanitary Measures and thereby to improve the marketing prospects of their food exports.

157. Another significant example of “horizontal coordination” is the “Plan of Action” that resulted from the Singapore Ministerial Conference of 1996 to deal with the particular trade problems of the least-developed countries. This led, in 1997, to the launching of the “Integrated Framework” of cooperation among the secretariats of several intergovernmental organizations.

158. The Integrated Framework is an interesting example of “horizontal coordination”. It is now an international initiative through which the International Monetary Fund (IMF), the International Trade Center (ITC), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Development Programme (UNDP), the World Bank and the WTO combine their efforts with those of least-developed countries and donors. The arrangement facilitates a coordinated response by these

agencies - each in their area of competence - to the trade related assistance and capacity building needs identified by the least-developed countries themselves. However, this is a complex undertaking that initially took some time to get off the ground and, to date, has been applied comprehensively to relatively few countries. It is hoped that the system will prove itself, in the long-term, as an effective, results-oriented weapon in the battle against poverty. Equally, it is to be hoped that donors, agencies and the governments of the target countries themselves continue to demonstrate the necessary commitment.

C. SEEKING COHERENCE ACROSS THE POLICY HORIZON

159. As observed at the outset of this chapter, the broad political context that led to the conclusion of the Uruguay Round was an awareness of global trends and tensions and an inclination to respond to them through international cooperation. The 1994 Ministerial Declaration on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Economic Policy-making expresses one problematic aspect of this awareness. It points out the challenges for trade liberalization that lie outside the trade field and cannot be redressed through measures taken in the trade field alone - in particular, the obvious linkages that exist between trade, exchange-rates and financial conditions. The Declaration also draws attention to the ever-growing interactions in economic policies pursued by individual governments as the globalization of the world economy progresses.

160. Hence the importance of pursuing and developing WTO's cooperation with intergovernmental organizations responsible for monetary and financial matters. Article III:5 of the Marrakesh Agreement invited the Director-General of the WTO to establish agreements with the IMF and the World Bank.

161. The agreements with the IMF and the World Bank were negotiated and concluded in 1996. From the point of view of the WTO, one of the basic aims was to raise the *locus standi* of the unprecedented *sui generis* organization to a new level in matters related to global economic management. In short, the idea was not to have the WTO adjusting in a subordinate manner, to the policies of the IMF and the World Bank but for the WTO to insert, through “horizontal coordination”, its agenda in those of the two powerful and long-established intergovernmental organizations.

162. In practical terms, the agreements impose on the three institutions a general obligation to consult. Further, the arrangements allow for the WTO Secretariat to observe meetings of the Executive Board of the Fund and of the Executive Directors of the World Bank when the agendas include discussion of trade issues or the formulation of policies in trade matters. The agreements effectively established some reciprocity in procedures for consultations and observership among the WTO, the IMF and the World Bank with the intention of ensuring the adoption of consistent and mutually supportive policies. In other words, “conditionalities” imposed by the IMF and World Bank should not only be supportive but consistent with WTO obligations - since they are not excluded from challenge under the Dispute Settlement Understanding.

163. The results of horizontal cooperation among the WTO, the IMF and the World Bank have, on the whole, been positive. The Fund and the Bank have been supportive of the efforts related to capacity building. They have also been supportive in sustaining trade liberalization, and both institutions have been critical of protectionist tendencies in developed countries, particularly those related to agriculture. In April 2004, the IMF announced a new policy called the Trade Integration Mechanism that permits the Fund to provide resources to cushion coun-

tries likely to face balance-of-payments shortfalls as a result of the implementation of the results of multilateral trade negotiations by their trading partners.

164. As to coherence in economic policy-making and the linkages that exist between trade on one hand and, on the other, exchange rates, finance, and macro-economic and development policies, the climate of opinion in 2004 is, again, not what it was in 1994. The political drive for international cooperation has diminished and the consensus regarding sound economic policies has grown thinner in the wake of the financial crises that have hit many emerging economies.

165. The issue of the compatibility of national policy space with coherence in global economic policy-making is a relevant one. However, it must be seen in the light of the contemporary global economy. States cannot effectively regulate, on their own, economic factors that are global and mobile, such as finance, investment flows, monetary payments and monetary policy. In dealing with these factors there is a clear governance deficit that the IMF and the World Bank are not able presently to accommodate. This is a limitation on the achievement of greater coherence in global economic policy-making that is beyond what horizontal coordination among the WTO, the IMF and the World Bank can presently achieve.

D. SOME FINAL COMMENTS ON THE SCOPE AND LIMITATIONS OF HORIZONTAL COORDINATION

166. Given the special nature of the WTO discussed earlier, one obvious limit to the scope of horizontal coordination is the need to preserve both the creation and interpretation of WTO rules from undue external interference.

167. The awareness of this limit is present in the agreements between the WTO and the IMF and the World Bank and in the practices of the WTO. Special care has been taken to preserve the autonomy of dispute settlement panels in exercising their legal competence to interpret WTO rules, including the rules that relate to linkages between financial and trade matters - and therefore to the relationship between the IMF and the WTO legal system. **In short, the dispute settlement system of the WTO, due to its special characteristics and being self-contained in its jurisdictional responsibilities, offers no legal space for cooperation with other international organizations except on a case-by-case basis derived from the right of panels to seek information. The Board endorses the maintenance of this policy.**

168. Much the same considerations apply in the areas of law-making and standard-setting. The WTO legal system is part of the international legal system, but it is a *lex specialis*. This *lex specialis, qua lex specialis* cannot be changed from the outside by other international organizations that have different membership and different rules regarding the creation of rules.

169. That said, observer status for international organizations in the WTO clearly serves a useful purpose. However, in recent years, it has been the object of political and diplomatic manoeuvring rather than judgments on practical merit. **In this context, the Board recommends that the issue of observer status in the WTO should not be examined in terms of the political tensions and conflict that prevail in other fora. Members would do well to benefit from the fact that the WTO is a *sui generis* international organization and to take positions on observer status based solely on the Organization's role as a forum for trade negotiations.**

170. **More broadly, the Consultative Board takes a favourable view of "horizontal coordination". Cooperation with other intergov-**

ernmental agencies generally adds value to the activities of the WTO. It also helps legitimize the WTO since it complies with the general obligation of conduct, related to cooperation, that is part of public international law. This is particularly the case in the present political climate as it helps to build up the network value of international cooperation in a world that is prone to conflict and fragmentation. One objective should be that in addressing the philosophy, as well as the legal detail of trade policy and reform, all the institutions engaged in this cooperative effort speak coherently. Wise trade policies are not encouraged by mixed messages from important institutions. We include in this context not only the World Bank and IMF but other agencies of the United Nations - like UNCTAD and UNDP - as well as the donor governments who work so closely with developing countries.

171. Yet coherence is not always straightforward; "horizontal coordination", even at its best, is not a complete response to the governance deficit that exists today as a result of globalization. Further, the issue of equity in the rules of international economic regulation towards the distribution of the benefits of coordination also looms high in today's world. It is not going to be resolved through inter-agency cooperation alone.

172. In Chapter I we have pointed out that trade liberalization and a more open economy can create adjustment problems for WTO Members. We also mentioned that developed nations have pursued adjustment assistance programmes based on domestic initiatives. These programmes reflect the political need to offset the social impact of trade liberalization which would otherwise not be politically sustainable. Developing countries, as they increasingly turn to trade liberalization, often lack adjustment mechanisms and are unable to put them into place due to budgetary constraints. This is an issue where there is room

for improvement through horizontal coordination. **International development agencies, chiefly the World Bank, should have, or should improve, programmes to fund adjustment assistance for developing countries. They should do so in close cooperation with the WTO and other agencies.** Indeed, we would argue that the ability of the Doha Round to deliver worthwhile results depends vitally on such action.

173. However, to reap the full benefits of “horizontal coordination” and achieve coherence attention has to be given to the role of the WTO Secretariat and the Director-General. As we discuss in Chapter IX there is a need, first, to avoid the tendency for other international institutions to fill the intellectual and expertise gap - that results from the present limitations of the Secretariat - in a manner that does not always serve the WTO system well. **If the Secretariat’s participation in “horizontal coordination” is to be on an equal footing with, for instance the World Bank and IMF, there are some significant resource and capacity issues that will have to be faced by Members. For its part, the Consultative Board believes that the strengthening of the Secretariat will add value to “horizontal coordination” and global economic policy coherence.**

174. There is, however, no reason to hold back in the area of coherence because of resource constraints. Much more could be achieved if the Director-General’s very considerable mandate to pursue coherence issues were fully exploited. The General Council took decisions in 1996 that not only approved the terms of the agreements between the WTO and the IMF and World Bank, but also invited the Director-General to build on those agreements to achieve greater coherence in global economic policy-making. This is the only area in the WTO where the Members have given the Director-General a formal, independent mandate to press the case for trade liberalization, for its own sake and for the contribution it can make to resolve other

economic policy problems. On two occasions the Director-General has convened meetings of the General Council devoted to coherence at which the Managing Director of the IMF and President of the World Bank participated. These sessions have provided valuable - though rare - opportunities to view the trade related activities of these three key agencies, and the trade policies pursued by their members, in the broader contexts of development, debt relief, poverty alleviation and the international financial landscape generally. More could be achieved along these lines.

175. The Consultative Board therefore recommends that the Director-General review options for expanding and intensifying WTO activity in relation to coherence within the terms of his 1996 mandate. This might entail the involvement in consultations of additional international organizations (other than the IMF and the World Bank) working in other trade-related policy areas. Further, given that our proposal for a new consultative body in the WTO (Chapter VIII) is based on the need to broaden and deepen the debate on trade issues among ministers and senior trade officials, we see the Director-General’s coherence mandate as relevant to that initiative also.