

## A Governance Audit of the WTO: Roundtable Discussion on Making Global Trade Governance Work for Development

### Briefing Note

The World Trade Organization (WTO) faces consistent complaints that it does not do enough to respond to the needs of developing countries and the challenges of environmental sustainability. With the Doha Round still in play, we can only speculate on how close governments will come to achieving the ambitions of the Doha Development Agenda. Meanwhile, questions about the needs and priorities for institutional reform of the WTO remain. Whereas the recommendations of the Sutherland Report on the *Future of the WTO* (2005) provoked considerable discussion in the scholarly literature, the issue of appropriate institutional reforms has not yet been taken up in earnest in policymaking circles. When discussions do take place, the emphasis is too often limited to reforms necessary to speed the process for reaching new WTO deals, neglecting broader questions of how to ensure the global trading system advances the ends for which it was established – to improve economic welfare in all countries, reduce poverty and advance sustainable development.

The questions for this roundtable are the following:

- How well does the governance of the WTO system respond to the needs of developing countries and environmental sustainability? How has governance of the WTO system evolved over time?
- How can we make the governance of the WTO system work better for development and for environmental sustainability?

### Governance Audit

A governance audit aims to shed light on decision-making processes, posing questions such as: Who sets the agenda and defines priorities? Who participates in decision-making? How transparent is the decision-making process? Who controls the budget? How accountable are decision-makers to those they represent? What processes exist to assess the performance against objectives? Who monitors and evaluates decisions and their outcomes? What are the opportunities for complaint and redress? In this research project, we use the concept of a governance audit as a tool for systematically identifying the possible avenues and mechanisms for improving the responsiveness of the WTO system to development priorities and sustainability concerns.

Over the past decade, there has been growing attention to the governance of international organizations. A number of scholars have, for example, scrutinized the accountability of the World Bank and IMF to member states and to the mandate, goals and priorities they have set for each agency. In both cases, significant deficiencies in accountability to developing country members were identified. The WTO differs in important respects from the international financial organizations. Whereas the centerpiece of the World Bank is its bureaucracy; the centerpiece of the WTO is the suite of legal agreements between Member States. Yet, compared to its predecessor the GATT, the WTO is also more than a set of agreements. Indeed, the WTO is best understood as a *system* established to serve a broad set of functions.

At the heart of the WTO system is the WTO Secretariat, a discrete international organization which is an actor in its own right. Alongside the Secretariat and legal agreements, the WTO system is also comprised of the interactions among WTO Member States, who conduct much of the day-to-day business of the WTO, the appellate body and a host of international agencies and non-government organizations (NGOs).

### Governing the WTO System: An Audit of Functions

The *Agreement Establishing the WTO* outlines specific functions for the WTO, both formalizing some of those previously served by the GATT Secretariat and also extending beyond them. In practice, the range of functions served by the WTO system as a whole now include:

1. Negotiation – serving as a forum for negotiations and consensus building on trade rules;
2. Monitoring – promoting transparency of member state trade policies and actions with regard to the implementation of WTO obligations;
3. Administration – administering WTO agreements;
4. Dispute settlement – providing a process for WTO Members to mediate and settle disputes;
5. Technical assistance and capacity building – providing trade-related training and financial, technical and legal advice to support developing country participation in the WTO system;
6. Research – publishing information and analysis on emerging trade trends and issues related to the negotiation and implementation of WTO rules;
7. Outreach – disseminating information to the media, industry, governments and civil society to promote understanding of the WTO system and to enable informed discussion about its objectives and activities; and
8. Cooperation – maintaining cooperative relationships with relevant international organizations.

The WTO system serves these eight functions through the activities and interactions of a variety of actors – the WTO Secretariat, Member States, appellate body members, international organizations, bilateral donors, NGOs, industry groups and scholars. Some functions rest primarily in the hands of Member States or the Secretariat, while others involve a broader set of actors.

Analysis of the governance of the WTO system thus calls for an approach that combines investigation of: (i) the governance of the WTO Secretariat and its relationship to the WTO membership; (ii) the relationship of the WTO members to each other in respect of their legal obligations; and (iii) the responsiveness of both the WTO Secretariat and WTO Members to the goals, principles and priorities that inform their legal agreements. Given the focus of our research on development, our research approaches the governance of each of the WTO's functions with a particular question: how effectively does the governance of that function address development needs?

### An Ongoing Research Agenda

In the existing scholarly literature, the various functions of the WTO system tend to be analysed independently. In practice, however, the functions are closely inter-connected. Of the many WTO functions, the focus of the following briefs is on three of these: negotiation, monitoring, and capacity-building. Other functions of the WTO system will be similarly examined in the coming year. For each function, the briefing note targets issues deserving particular attention. The analysis and findings represent a work in progress; we do not yet claim to advance a comprehensive picture of the governance challenges facing the WTO system or a firm set of conclusions. Drawing on the preliminary findings, we do nonetheless propose priorities for future debates on the reform of WTO governance.

Already, the effort to apply a shared analytical framework across several WTO functions reveals several common challenges to making global trade governance work for development, including:

- *Limited capacity of developing countries to set the agenda*

While there have been improvements and advances on some issues, developing countries still too rarely set the agenda or priorities across the three functions examined.

- *Weak national trade policymaking contributes to deficiencies in global trade governance*

Discussion of the challenges of global trade governance often neglects the link between global governance and processes of trade policymaking within developed and developing countries. The ability of developing countries to exercise voice in global trade governance depends critically on their national trade policymaking capacity, including coordination within government, access to analytical resources and mechanisms for stakeholder input. In developed countries too, the extent to which trade policy making is embedded in broader development policymaking makes a difference to how supportive global trade governance is to development.

- *The need to couple greater resources with revised mandates*

For each of the functions of the WTO system examined thus far, there are often calls for greater resources in order to respond to the needs of developing countries. The initial results of our governance audit suggest that for the WTO system to better work for development, governments will need to match commitments to greater funding with improvements in decision-making processes and adjustments to institutional arrangements and mandates.

*Mayur Patel*

Of all the WTO's functions, its existence as a forum for countries to negotiate the rules and agreements that regulate global trade is arguably the most important. Yet, concerns about the operation of this function have been a long-standing feature of debates about the multilateral trading system. In 1999, the dramatic breakdown of the Seattle Ministerial placed the marginalisation of developing countries in key deliberations as one of the central political challenges facing the international trade regime. Indeed, the WTO negotiating process has been frequently criticized for a lack of transparency and accountability.

The WTO's negotiating function involves a variety of processes and practices for agenda-setting, consensus-building and deal-making. Formal processes include Ministerials (and mini-Ministerials), Committee and Council meetings through which WTO members interact and are supported by the WTO Secretariat. Informal processes such as the 'Green Rooms', 'bilaterals', and small-group retreats and meetings in Geneva and in national capitals also play a critical role.

Although the ongoing debate about reform of WTO negotiating processes has not yet yielded formal institutional changes, the actual practices of negotiation and consensus-building have evolved considerably over the past decade. One of the most significant shifts has been the rise of developing country coalitions and their inclusion as platforms for joint-representation in the WTO. The implications of this on the governance of WTO negotiations are insufficiently understood, and warrant further consideration: does the rise of coalitions alleviate concerns about transparency and participation in decision-making activities? Do these adaptations compensate for the lack of formal WTO reform? How sustainable is this form of joint-representation?

### Evolving Practice and Proposals for Reform

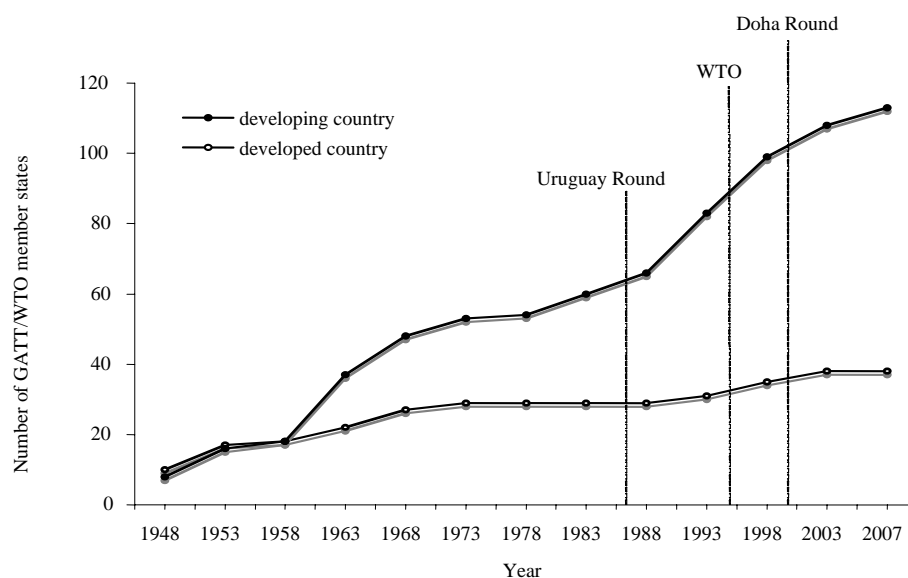
Historically, multilateral trade negotiations have proceeded through the creation of 'consensus' within closed inner circle group meetings. The major trading partners of the Quad – the EU, US, Japan and Canada – traditionally dominated both the formal and informal negotiations, most notably through the process of 'green room' meetings, where a handful of countries negotiate compromises that are later submitted to the membership at large. While under the GATT, this restricted form of consensus-building worked to produce outcomes over eight trade rounds, the expanding scope of international trade agreements and the growing desire amongst developing countries to be engaged in WTO negotiations exerted significant pressure on this form of decision-making. As developing country membership increased (see **Figure 1** below), the sustained reliance on this pattern of decision-making led many member states, NGOs and scholars to criticize the WTO for being illegitimate and unresponsive to the demands of the majority of its membership.

Several proposals have been put forward to reform the way WTO negotiations are conducted. While this ongoing debate includes various discussions about the merits of the 'single-undertaking', the possibility of a 'variable geometry' and the scope of the trade agenda, the focus here is mainly on transparency and participation in decision-making processes. In this area, some have argued for the creation of a steering committee of 20 member states that would formalise the green room along the lines of the World Bank and IMF Executive Boards, with membership based on a country's absolute value of world trade and criterion for geographic representation. Others have suggested that a 'WTO Consultative Board' be established to help guide the deliberations, without retaining executive powers. In its recommendations, the Sutherland Report on the *Future of the WTO* (2005) also proposed that a senior officials' consultative body be created of up to 30 member states to give political direction to the negotiations.

Although none of these proposals have been adopted by the membership, the actual practice of consensus-building has gradually changed with the proliferation of developing country coalitions (see **Table 1** below). Coalition bargaining is not new to the trading system, but what is striking about some of today's groupings is their unprecedented institutionalisation as platforms for joint-representation.

Under the GATT, developing countries were largely excluded from the green room and other informal processes. Even in the early days of the WTO, the handful of developing countries that were included in key informal deliberations were only invited in their individual capacity, rather than as representatives of wider groupings. More recently, it has become customary for some developing countries to be involved in inner circle consultations in their *ex officio* capacity as co-ordinators of coalitions.

**Figure 1. Growth in Developing Country GATT/WTO Membership (1948-2000)**



Source: [www.wto.org/english/thewto\\_e/gattmem\\_e.htm](http://www.wto.org/english/thewto_e/gattmem_e.htm). Accessed 20 April 2007

**Table 1. The Proliferation of Developing Country Coalitions in the GATT/WTO (1973-2007)**

Timeline	Coalition Formation
Tokyo Round (1973-1979) and pre-Uruguay (before 1986)	ASEAN Group (1973); Informal Group of Developing Countries (1982); Café au Lait Group (1983).
Uruguay Round (1986 – 1994)	Developing Countries on Services (1986); Cairns Group (1986); Air Transport Services (1986); Food Importers’ Group (1986); Latin American Group (1986); MERCUSOR (1991).
Post-WTO (1995 – 2007)	<p><i>Pre-Doha Round 1995 – 2001:</i> Like-Minded Group (LMG) (1996); Small Vulnerable Economies (SVEs) (1996); African Group (1997); Caribbean Community (CARICOM) (1997); Friends of Fish (1998); Friends of Geographical Indications (1998); Friends of the Development Box (1999); G-24 on services (1999); Least Developed Countries (LDC) Group (1999); Paradisus Group (2000).</p> <p><i>Doha Round 2001-2007:</i> African, Caribbean and Pacific (ACP) Group (2001); Core Group on Singapore Issues (2001); Recently Acceded Members (RAM) (2003); Cotton-4 (2003); G-10 (2003); Friends of Anti-dumping (2003); G-11 (2005); G-20 (2003); G-33 (2003); G-90 (2003); Core Group on Trade Facilitation (2005); NAMA-11 (2005).</p>

This shift to explicitly include coalitions in WTO decision-making began with preparations for the Doha Ministerial in 2001, and has since become further institutionalised. At the Ministerial in Hong Kong, the Director-General Pascal Lamy oversaw important procedural changes to accommodate coalitions. In particular, the ‘green room’ process was restructured. Re-labelled the Chairman’s Consultative Group, it functioned as a pseudo-parliamentary system with different country constituencies represented through their co-ordinators. In this manner, the African Group (represented by Egypt), the ACP/G-90 (Mauritius), the LDCs (Zambia), the G-20 (Brazil) and the G-33 (Indonesia) were all active participants in inner circle deliberations. Given these trends, coalitions have now emerged as an integral part of the negotiation process.

## The Implications for WTO Governance

The ongoing challenge facing WTO negotiations has been how to build consensus amongst 151 diverse member states, while ensuring all are sufficiently represented. A consultation process that is too exclusive runs the risk of being unrepresentative, while deliberations that involve too many members are susceptible to being overly cumbersome. An added difficulty is that many developing countries have only limited technical and human resources to meaningfully participate in the wide range of trade negotiations that occur simultaneously. In a member-driven organisation, a state that does not have the capacity to be represented and engaged in discussions is at a great disadvantage in trying to influence a multilateral decision-making process.

In light of these challenges, member states and the WTO Secretariat have increasingly drawn on coalitions to help manage the complexity of multilateral negotiations. Developing countries have attempted to establish common platforms to enhance their representation and negotiating capacity. The Secretariat too has become increasingly sophisticated in ensuring coalition representatives are invited to attend key decision-making processes. Reaching out to coalitions is now a favoured means of breaking deadlocks, bolstering the legitimacy of outcomes and satisfying the desires of all member states to be included in discussions.

These shifts in the negotiations demand further consideration, for they have important implications on the governance and accountability of the WTO. Firstly, to what extent does the inclusion of developing country groupings in consensus-building alleviate criticisms about participation and transparency in the WTO? And secondly, does the rise of coalition-based representation compensate for the lack of formal reform of WTO negotiations?

Certainly, coalitions have improved the representation and lobbying capacity of developing countries. The majority of developing country delegations are relatively small and ill equipped to follow, let alone influence, the negotiations. Coalition bargaining has thus allowed member states to partially offset their individual constraints through cooperation in information gathering, policy analysis and participation in WTO meetings. For countries without a permanent representative to the WTO, their membership to a coalition that has a presence in Geneva has provided a cost effective strategy to participate in ongoing negotiations by proxy. Even for member states that do have permanent missions in Geneva, the sharing of the labour costs involved in engaging in the negotiations has enabled developing country interests to be better covered in the WTO.

Coalitions have also improved access to WTO decision-making by providing developing countries with a foothold in previously exclusive meetings. To take advantage of having representation in the green room, coalitions now host internal meetings where co-ordinators debrief their members on the discussions that occur within 'closed consultations'. This information dissemination has improved the transparency of the negotiations, particularly given that records of informal meetings are not kept, and hence, unlike official meetings, they cannot be followed without an actual presence in the discussions or an established line of communication.

The proliferation of coalition representation has improved the virtual access of many weak states and the internal transparency of some WTO decision-making processes, but far from all. Indeed, since the conclusion of the July Package in 2004 much of the focus of consensus-building has shifted to small group discussions between the G-6 (the EU, US, Japan, Australia, India and Brazil) and the G-4 (the EU, US, India and Brazil), excluding the vast majority of developing countries and their coalitions. Ensuring commitment to a multilateral and inclusive negotiation process thus remains an ongoing challenge.

The particular form of coalition-based representation that has evolved in the negotiations also raises a new and important set of challenges, most notably in terms of accountability and the internal dynamics of coalitions. Historically, the divergent interests of members have tended to undermine the coherence of developing country groupings. Even where there is a strong common interest, this may not be enough on its own to secure joint-representation. In a system where one country bargains on behalf of a group, the critical question is whether states are able to regulate the behaviour of their co-ordinator to prevent the possibility of deviation or defection from the group's mandate.

In coalitions where the co-ordinating post is assigned on a rotational basis, members can sanction their leaders by relieving them of their positions. However, in coalitions where the co-ordinating post is fixed this form of electoral accountability is less readily available. Aside from this, countries may be able to monitor their co-ordinator's behaviour when other members of the same coalition are also present in the green room, either in their individual capacity or as 'Friends of the Chair'.

In both types of coalitions, the co-ordinating delegation (whether fixed or not) often provides the technical expertise and political authority that many members depend upon. While sharing resources can be beneficial, this situation also increases the possibility that members may be reluctant to challenge the authority of their co-ordinators. This dilemma raises issues about the trade-offs that states accept within joint-representation arrangements, whereby their 'nationally-determined' positions maybe set aside in order to agree to elements of a common platform. Given these limitations, coalition bargaining is not a substitute for strengthening national trade policy processes and building the capacity of domestic institutions to support developing country participation in the WTO.

### Priorities for Future Debate

Current trends in WTO negotiations indicate that coalitions will increasingly be used as the primary means of managing the pressure to ensure all members feel represented in the negotiating process. Coalition-based representation does indeed have significant benefits for developing countries and appears in practice to be a far more workable adaptation than grappling with proposals for the formal restructuring of the WTO negotiating process. The way in which coalitions are included in the consensus-building process allows for flexibility – members remain free to determine the features of their coalition and alliances are able to change in response to shifts in the negotiations. By contrast, attempts to introduce formal country groupings, such as exist in the IMF, run the risk of reducing this responsiveness.

That said, it is important to recall that coalitions represent a response not only to the dynamics of consensus-based decision-making but also to the failings of the WTO's formal governance system and the enduring capacity constraints of individual developing countries. For the WTO's negotiation function to work in ways that enable developing countries to advance their interests, a range of organizational and substantive challenges continue to warrant critical attention. The current difficulties in concluding the Doha Round suggest the need for further discussion of options for unpacking the 'single-undertaking' and of managing the scope of the trade negotiating agenda. Furthermore, the growing use of coalitions does not alter the fact that with or without the benefits of joint-representation, many developing countries - particularly the poorest - still lack the capacity to identify, articulate and defend their individual trade interests.

Although the specific features of existing WTO coalitions may alter as the negotiations develop, coalitions appear likely to continue as the dominant means of structuring developing country representation in the WTO. The key factors likely to impact the viability of this approach are the durability of coalitions and whether developing countries perceive sufficient returns on their efforts to devise and defend common positions.

In terms of the challenge of making coalitions more effective and sustainable as platforms for joint-representation, the priorities for future debate include:

- *Improving the negotiating capacity of coalitions*

The lack of expertise and technical capacity within many developing country delegations still often hinders the ability of coalitions to established and lobby for detailed positions in WTO negotiations. The access of different developing country coalitions to research and technical support – whether from national capitals or from independent sources – varies widely, as does the capacity of coalitions to communicate their negotiating priorities to other WTO members and to the media. Greater attention thus needs to be focused on how to build the networks of information, policy analysis and outreach available to groupings. The G-20 grouping, for example, benefits from the considerable analytical support of researchers located within several of the larger countries in the coalition. In instances where think-thanks and NGOs have targeted their support at coalitions, such as in TRIPS and Public Health discussions and on the issue of SP and SSM, this has enhanced the formulation of well-researched and coherent negotiating positions. Further gains could be forthcoming from replicating this engagement and using coalitions as a focal point to channel technical support. Efforts could also be made to bolster the capacity of regional secretariats that service coalitions. However, developing countries will still have to think about how to strengthen the input of their domestic institutions in trade negotiations. Here, coalition processes that build greater policy linkages between Geneva-based delegations and their capitals could be encouraged.

- *Strengthening internal coalition processes*

The responsibility for co-ordinating coalitions places a large burden on the already limited resources available to developing country delegations. These constraints hinder the internal organisation of coalitions and their ability to be represented and have their concerns articulated in the negotiations. To improve the effectiveness of groupings, additional financial and material resources could be devoted to support the post of co-ordinator through multilateral and regional programmes. Perhaps, coalition members could even allocate resources to their co-ordinator, either directly or through regional bodies. Such a system would place greater incentives on co-ordinators to secure contributions from their member states by showing their effectiveness.

Additionally, in many groupings the position of co-ordinator has tended to rotate amongst only a handful of members due to the demanding nature of its responsibilities. This has made many coalition members dependent on the material resources and expertise of a few countries. Devoting more resources to the post of co-ordinator would have the benefit of enabling more developing countries to take on leadership positions in their respective groupings, thereby improving the internal accountability of coalition-based representation. Similarly, there is a need to ensure coalition engagement in the negotiations is not hampered during the period of transition between co-ordinators. To assist in the handing over of leadership, some coalitions have discussed introducing a troika committee involving the former, current and successor co-ordinators. Establishing processes that facilitate greater continuity and predictability within groupings would certainly improve the effectiveness of coalitions.

- *Supporting joint-representation of coalitions*

The time constraints and pressures of multiple negotiations in the WTO that occur simultaneously have tended to undermine the lines of communication and feedback between coalition co-ordinators and their constituent members. In particular, at Ministerial conferences the numerous meetings that run in parallel have often weakened the organisation and coordination of developing country groupings. For there to be meaningful joint-representation in the negotiations, the WTO Secretariat and Chairs of Negotiating Groups could do more to ensure that sufficient time is provided to allow coalitions to harmonise positions, especially during periods of intense deliberations.

# Governing the WTO System: The Monitoring Function

*Arunabha Ghosh*

In December 2007 the trade regime's most institutionalised and multilateral monitoring system will turn eighteen. In November 1987, before the Trade Policy Review Mechanism was born, then Deputy U.S. Trade Representative Julius Katz espoused the value of transparency in the trading system:

*The review procedure is not intended purely to serve the purposes of information, but to enable contracting parties to survey the course of trade policies, as well as to assist government administrators in how national policies should evolve. Transparency is not a modest objective.*

- Julius Katz, 3 November 1987

In 1989, at a time of uncertainty in a trade round, the TPRM was established as a means to increase the collective understanding of members' policies. If transparency was not a modest objective, has the TPRM served its intended purpose? Further, as it nears a third decade, how well-equipped is the TPRM to respond to the many challenges and new demands it confronts, including calls for more information, analysis and expertise in trade policymaking; the limited participation of the WTO's poorest members in the review process; and the need to better link the reviews with domestic and international processes of policy change.

Moreover, in the context of the Doha mandate to advance a Development Agenda in the current Round, the WTO's information system arguably warrants a greater development orientation, focusing on the needs of two-thirds of its membership. Developing countries originally accepted the TPRM with the expectation of several benefits: fixing prevailing asymmetries in surveillance obligations and surveillance capacity; securing a stamp of approval on their policies and attracting investment; and improving policy coordination at home while strengthening the hands of domestic liberalisers. Anecdotal evidence suggests that poorer developing countries continue to value the role that TPRs play in evaluating their own policies. However, to achieve the broader goal of drawing developing countries into the mainstream of the trade regime, moves toward enhanced surveillance will need to be accompanied by a strong reflection on whether the time has come to update the TPR's objectives to better address development priorities.

## Evolving Practice and Current Dynamics

Surveillance in trade evolved over four decades, shifting from *ad hoc* procedures to periodic reviews (see **Figure 1**, *annexed*). It started with isolated GATT review sessions in the mid-1950s. This switched to more issue-specific monitoring such as for agriculture or textiles in the 1960s and 1970s. By the mid-1980s, surveillance took on greater periodicity to monitor the standstill and rollback commitments during the Uruguay Round. Finally, the TPRM was established in 1989 to ensure 'greater transparency in, and understanding of, the trade policies and practices of contracting parties;' to enable 'regular collective appreciation and evaluation' of policies; and to promote 'improved adherence' with rules and commitments. Its design was influenced by the rival positions that countries took and the agendas that they individually or collectively sponsored, but there was little disagreement on its need. At the inception of the WTO, monitoring was listed as one of the system's primary tasks.

Trade policy reviews are now a regular feature of the WTO. The growing activity of the TPRM has been accompanied by steady growth in the budget and staffing of the Secretariat's Trade Policy Review Division (See **Tables 1 and 2**). Almost all countries have undergone a review at least once, with more than 230 reviews having been conducted. Moreover, less developed countries have received technical assistance since 2000 to conduct their own reviews: to date, 26 of the 32 LDC members have been reviewed. Another innovation has been the increasing use of regional reviews (so far, there have been four), with the aim of making more efficient use of financial and staff resources and also to highlight challenges to trade policy from a regional perspective. In addition, monitoring occurs through the annual overviews of developments in the trade system, surveillance of regional trade agreements, and the procedures for notifications.

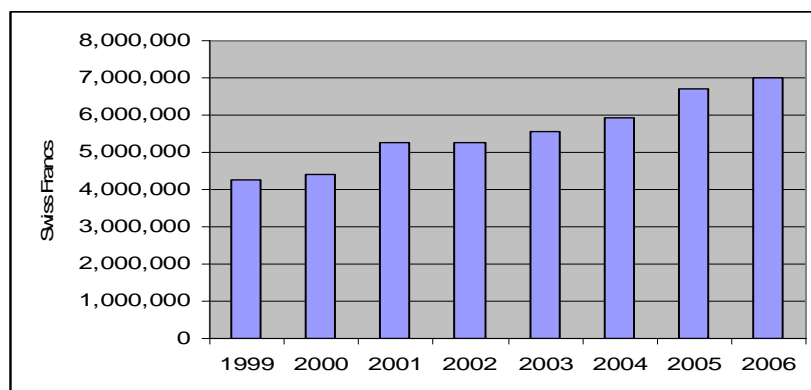
Recent changes in the TPRM have been largely procedural. The lead time for documents to be distributed to member states has been extended from four to five weeks prior to review meetings. Written questions now have to be submitted two weeks in advance, rather than ten days as was the practice. Written answers are now expected at the start of the meetings. Keeping in mind the need for disseminating information on time, member states have called for the publication of all documents within



three months of the meetings. Finally, the annual overview of developments in the trade system is to be held earlier in a calendar year.

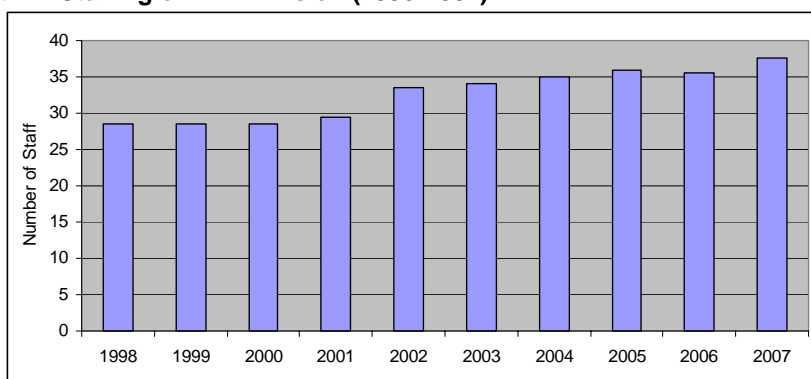
Set against these positive developments, there is a need to evaluate the TPRM in light of the challenges that an increasingly complex trade regime gives rise to.

**Table 1. Growth in Trade Policy Review Division Budget (1999-2006)**



Source: WTO Secretariat

**Table 2. Growth in Staffing of TPR Division (1998-2007)**



Source: WTO Secretariat

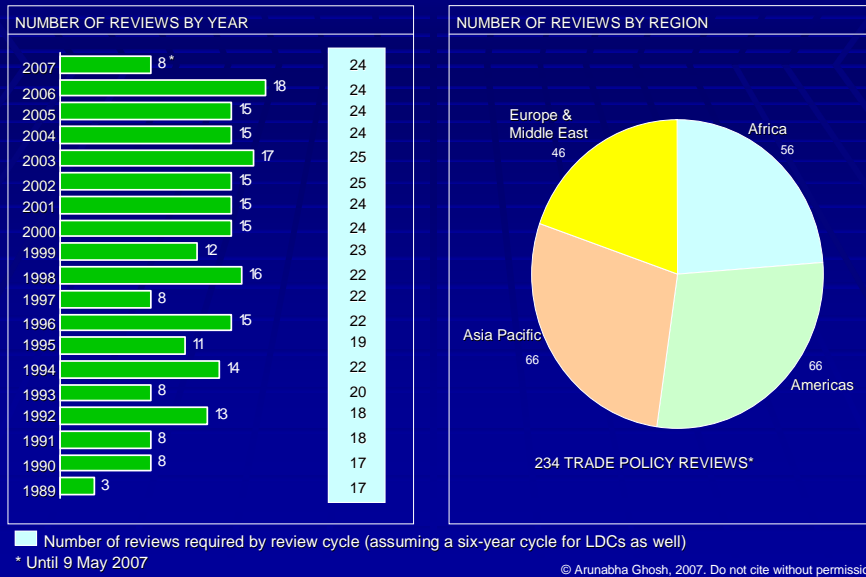
## Governance Challenges

### *The Product*

The first challenge concerns the *product*. Reviews have become more frequent to cope with the growing membership of the WTO. Improved staff efficiency, better communication links with capitals, and the use of regional reviews have contributed to the rising frequency. But as **Figure 2** shows, the TPRM has never been able to match the number necessary to maintain the cycle of reviews. For a majority of the WTO's membership reviews occur once in six years. If even this frequency is not maintained then the achievement of the TPRM's purpose of improving transparency in trade policy will be undermined.

Another implication is that, with resources and staff within the Trade Policies Review Division constantly stretched, the depth of analysis in the reports will tend to suffer. Consider that the IMF has about ten staff working over 12 months in preparing the review for a country like the United States. Consider again, that at most two WTO Secretariat staff are assigned to write a report much broader in scope in a span of eight to nine months. Every single member country's representative interviewed has called for more analytical research. Yet, members also remain wary about strengthening the mandate of the Secretariat to conduct more probing reviews. Although the Secretariat has editorial control, much of the information is supplied by governments; there is limited reliance on non-official data sources. If governments do not supply timely and up-to-date information, the product suffers. A further challenge relates to the use of expertise on sector-specific issues. The TPRD, at times, seeks inputs from other WTO divisions while preparing the reports. But since this is not part of the primary mandate of other divisions, there is little political priority to respond on time.

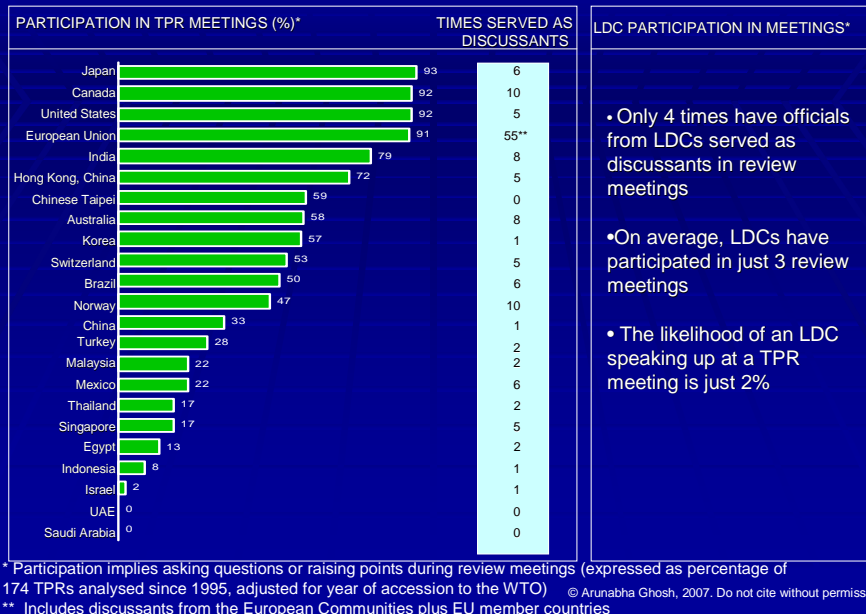
**FIGURE 2: MORE THAN 230 TPRs CONDUCTED, BUT PRESSURE TO KEEP UP WITH THE REVIEW CYCLE IS INCREASING**



**The Process**

The second challenge pertains to the *process*, of preparing for and participating in the review meetings. The Trade Policy Review Body comprises all WTO member states, giving developing countries equal rights and opportunities to review the policies of rich member states. Among other international economic institutions, this is a very different setup, compared to say the weighted voting systems in the IMF and the World Bank, which limit the voice of poor countries, or the OECD reviews in which developing countries cannot participate. Yet, the participation of a majority of the WTO's members is almost negligible (see **Figure 3**). The top four trading powers almost always participate in review meetings. But even among the next sixteen, there are only a few active participants: only a minority has participated in more than half the meetings. Worse still, an average LDC has participated in three meetings; and there have been only four discussants from LDCs. The likelihood that an LDC will ask questions or raise a point is just 2 per cent.

**FIGURE 3: PARTICIPATION OF DEVELOPING COUNTRIES IN REVIEW MEETINGS IS LIMITED**



There are a few possible reasons for the trends described. Some argue that LDCs are basically interested in maintaining preferences, so have no incentive to closely review the policies of richer trading countries. LDCs, in turn, point to the review meetings clashing with other meetings of more immediate importance. Many LDCs do not even have permanent representation in Geneva. Added to these problems is the technical expertise that is often lacking in developing countries to understand the policies of their trading partners and ask questions that have relevance for their export interests.

### **The Outcomes**

The final challenge, by no means the least, is the *outcome* of the reviews. The TPRM was explicitly mandated not to function as a legal enforcement mechanism. Changes in policy, it was believed, would be the result of peer pressure. But peer pressure, by definition, works best when either regime members are at similar levels of development or as a means for more powerful countries to pressure weaker ones. The TPRM, however, has no systematic procedure for following up after reviews have been completed. At the domestic level, there have been cases where the reviews have resulted in improved coordination among government agencies. But often there is no further review or discussion of policy changes that might be needed. Furthermore, governments have the prerogative to choose which NGOs and business associations to consult with during the preparation of the reports. If the consultations are limited in scope, there would be little external pressure for policy change once the reviews are completed.

At the international level, potentially countries can use information from TPRs for negotiations. In practice, they seldom rely on the reports for the kind of sophisticated analysis necessary to take informed positions in trade talks. As regards dispute settlement, information from TPRs is inadmissible to Panels or the Appellate Body. So, even as the richest traders subject other countries to close scrutiny during review meetings (a form of peer pressure), developing countries have few avenues available in the opposite direction to demand any policy correction.

### **Implications for Developing Countries**

Given these trends, countries seem to be running through the motions of TPRs without being completely sure of the benefits. So, what implications do the challenges of product, process and outcome hold for the quest for improved transparency and better participation of developing countries in the WTO?

The first question is whether better monitoring matters at all? Information is needed not only during negotiations but also during the implementation, monitoring and enforcement phases. Regimes are created to counter the information gaps that arise during each of these phases. In an organisation with more than 150 members, no country can adequately monitor policy changes in each and every member state. But for developing countries, owing to their limited resources and technical capacity, these informational problems are magnified. The poorer a country is the greater are the marginal benefits of an effective multilateral surveillance system.

A related concern is that asymmetries in access to information and analysis might be widening not only between developing and developed countries, but between large and small developing countries as well. Information in the trade regime is gathered via various systems: self reporting (e.g. notifications); other reporting (research by countries on other members' policies); reporting by non-state actors (e.g. the role of international NGOs in the TRIPS and public health debates); and institutional reporting (primarily, the TPRM). Major developing countries, like Brazil, China and India, have been building up their internal research capacities, in turn supported by domestic NGOs and industry lobbies. For the poorest countries, institutional reporting is, in all probability, the most reliable means of gaining information about and understanding of the trade policies of richer members. Without effective institutional monitoring, the risk of further marginalisation becomes greater.

A third implication is the potential use of information. Since the launch of the Doha Round a new trend of developing country coalitions has emerged. But many coalitions continue to be constrained by limited technical expertise. An ideal surveillance system not only disseminates information and promotes compliance, but also engages in 'regime evaluation'. In this sense, the purpose of surveillance would extend to evaluating the welfare impact of trade rules. Such objective analysis would be useful as research and policy inputs in the negotiating positions that new coalitions adopt. Developing countries had the bitter experience of not understanding the implications of new rules negotiated during the Uruguay Round. More informed negotiations during current and future trade rounds would have the benefit of creating rules that strengthen the WTO's legitimacy.

## Priorities for Future Debate

In light of the above discussion, there are four key priorities for future research and policy debate:

- *Improving the content of reports*

The calls for more analytical research have implications for the mandate and the resources available to the Secretariat: the ability to use non-official sources of information and greater editorial independence. On the Secretariat side, there is a need for a new kind of coordinating mechanism to draw on staff with regional and sector-specific expertise from across WTO divisions. There is also need for more quantitative evaluations of the regime's rules, with the WTO acting in collaboration with other international agencies that are undertaking similar research. Additionally, some delegations stress the need to understand the implications of relatively new members (China, Saudi Arabia) or those expected to join in future (Russia), whose policies have significant implications for the trade system. Perhaps, assigning desk officers for major trading powers would be a step in that direction.

- *Strengthening the review process*

At the domestic level, member states have to think about drawing in business groups and NGOs in a wider domestic dialogue on trade policy. The TPR process could be combined with the establishment of national policy forums on trade policy. Some countries already have such mechanisms, so the model can be used more extensively. The review meetings in Geneva can benefit from procedural changes: external discussants to provide more neutral yet critical comments; ensuring that review meetings do not clash with other meetings; and making high-level representation in meetings mandatory. In order to facilitate the participation of poor countries, the design of technical assistance might have to change: not just training sessions on an individual country's obligations, but a wider understanding of rules and flexibilities. The aim would be for representatives to understand the implications of rich countries' policies for their own interests.

- *Ensuring adequate follow up to reviews*

Member states could use national trade policy forums to develop procedures that link TPRs more closely with the policymaking process. The long gaps between two TPRs often result in forgotten policy lessons. Interim national-level policy dialogues (between two reviews) can help in taking stock of changes and improvements in policies. The WTO, in turn, will have to think about: increasing the dissemination and visibility of the reports; and establishing more structured links with the Integrated Framework and technical assistance needs more generally. For aiding negotiations, the coordinators of coalitions should establish processes to outline the implications of the policies of their trade rivals. The aim would be to ensure that information from the TPRs feeds into negotiations and a structured process of demanding policy change.

- *Rethinking the aims and objectives of the TPRM*

Many of the aforementioned proposals cannot be implemented within the current level of resources allocated to the TPR or its organizational structure. Moreover, several proposals stretch the scope of the TPRM beyond its current mandate. The existing structure of reports and review meetings cannot possibly be expected to generate the kind of information that the regime needs for negotiations, implementation and enforcement. Without new innovations in gathering and disseminating information, the TPRM might lose relevance exactly when the need for better information has become so evident. An expanded mandate would allow for the TPRM to work better for developing countries by incorporating more analytical research on rich countries' policies as well as evaluations of the development outcomes of the regime as a whole.

**Figure 1. Evolution of surveillance mechanisms in the multilateral trade regime**

	1950s	1960s-70s			Post-Tokyo Round (1979-85)	Early Uruguay Round (1986-89)	GATT TPRM (1989-94)	WTO TPRM (1995 onwards)
<b>Type of information system</b>	Ad hoc	Issue-specific institutional reporting	Self-reporting; Other reporting	Institutional reporting	Institutional reporting	Ad hoc institutional reporting	Formal institutional reporting	Formal institutional reporting
<b>Originating mandate</b>	GATT Review Session	1958 Haberler Committee Report	Committee on BoP Restrictions; Committee on Textiles; Committees on MTN Codes	Committee on Trade & Development	1979 Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance; Committee on Textiles; Committee on Trade & Development	1985 Eminent Persons Group; 1986 Punta del Este Ministerial Declaration	1989 Negotiating Group on Functioning of the GATT System	1994 Marrakech Agreement
<b>Scope</b>	QRs, schedules, organisational questions – extended to BoP consultations	Agriculture, including Common Agricultural Policy	BoP restrictions; textiles; MTN codes	Developed country trade barriers against developing countries; LDC-specific issues	General developments in the trading system; non-tariff barriers; adjustments under MFA; trade and development	Standstill & rollback commitments	Trade in goods; measures affecting trade system; all Contracting Parties	Goods, services, intellectual property; some analysis of fiscal, monetary & environmental policy; all Member States
<b>Frequency/Period covered</b>	1954-55	1959-62	Annual (biannual for developing countries)	From 1979, annually	Twice-yearly Council meetings from 1980; CTD consultations from 1982	Thrice a year from 1987	Periodic - Based on share of world trade	Periodic - Based on share of world trade
<b>Reporting responsibility</b>	Four working parties	Committee II	Notifications by Contracting Parties; Monitoring by individual parties		GATT Secretariat	Surveillance Body; notifications by Contracting Parties	GATT Secretariat & Contracting Party core budget financing	WTO Secretariat & Member State core budget financing
<b>Review authority</b>	GATT Council		Committee on BoP Restrictions; Textiles Surveillance Body	Sub-Committee on Protective Measures; Sub-Committee on Trade & LDCs	Special Council; Sub-Committee on Adjustment; Consultations with CTD	Trade Negotiations Committee	GATT Council	Trade Policy Review Body
<b>Number of country reviews</b>	N/A	40 plus EEC	N/A	N/A	N/A	N/A	54	180 (until 9 May 2007)

# Governing the WTO System: The Capacity-building Function

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*Dr. Carolyn Deere*

There is broad political consensus that developing countries should be assisted to maximize the potential gains of their participation in the WTO system. The rationale for trade-related technical assistance and capacity building (TACB) is to *empower* developing countries to engage more effectively in the multilateral trading system so that they reap a fair share of its potential economic and social rewards. In this respect, the demand from developing countries for trade-related capacity building and technical assistance focuses on four core priorities: building supply-side capacity to benefit from new international trade opportunities; supporting the institutional and physical infrastructure and human resources needed to implement WTO agreements; development-oriented legal and policy assistance to revise laws to meet WTO obligations; and supporting strengthened participation in WTO negotiations and decision-making processes.

Critically, TACB in the WTO system has a deeply political and legal context. Many of the obligations developing countries have under WTO Agreements are predicated on the commitment by developed countries to provide TACB. Further, as the outcomes of complex negotiations, the legitimacy of some WTO rules remains deeply contested as does the possible scope for the interpretation of their many ambiguities, loopholes and flexibilities.. In this context, empowerment demands far more than enabling developing countries to simply comply with a given set of rules, but rather to ensure that the manner in which they comply advances their development objectives, taking advantage where relevant of the policy space that trade rules provide.

Since 1995, both the scale and scope of trade-related TACB have expanded significantly, spurred in large part by the commitments made in 2001 to a Doha Development Agenda. For most of the past decade, discussion of trade-related TACB has concentrated on two core areas:

- Trade policy and regulation, including training trade officials, helping governments implement trade agreements, complying with rules and standards, and building negotiation capacity).
- Trade development (which includes providing support services for business, promoting financial and investment, trade promotion, conducting market analysis).

From 2001-2007, the total amount spent on these two categories - trade policy and regulation, and trade development - was US\$13 billion. Donors have also made significant investments in the infrastructure necessary for trade such as transport, roads, ports, storage, communications and energy. The launch of the Aid for Trade Initiative has placed more emphasis on trade-related infrastructure development and added commitments to activities aimed at building productive supply-side capacity and supporting trade-related adjustment.

The number of players and TACB initiatives has also increased. Amidst important reforms to the management of trade-related TACB aimed at improving efficiency, effectiveness and coordination, the enduring problems are that TACB remains donor-driven and local ownership is still weak. This paper reviews the core outstanding *governance* challenges in the area of TACB and sets out several priorities for making sure trade-related TACB works to empower developing countries and advance development.

## The WTO and Trade-related TACB

The WTO Secretariat is a central player with respect to the capacity-building function of the WTO system. Within the WTO Secretariat, TACB is coordinated by the Institute for Training and Technical Cooperation (ITTC), based on annual technical assistance and training plans (TA Plans), and overseen by the Committee on Trade and Development. The WTO Secretariat's budget for TACB has increased significantly, particularly since 2001. In 2007, the total cost of the TA plans was budgeted at Sfr30 million annually, of which Sfr24 million is covered by the voluntary contributions channeled by governments through the Doha Development Global Trust Fund (established in 2002) with the remaining CHF6 million covered by the WTO's regular budget. Table 1 shows the core contributors to this Trust Fund from 2005-2007. The WTO's TACB focuses exclusively on technical assistance for trade policy and regulation, with a particular focus on trade education and training (which accounted for approximately 30% of its budget from 2002-2007). Table 2 shows the focus of the WTO's technical assistance and training by category.

While the WTO's TACB budget has grown over the past decade, it is just one of many actors involved in serving the capacity-building function of the WTO and its proportion of total trade-related TACB is small. The WTO does, however, have two further important TACB-related roles. First, it is a key participant in several joint multilateral initiatives, namely:

- The Integrated Framework (IF), a programme established in 1997 and jointly managed by the WTO, UNCTAD, the World Bank, the IMF, the International Trade Centre, and the UNDP to support LDC governments in trade capacity building and integrating trade issues into overall national development strategies.
- The Joint Integrated Trade Assistance Programme (JITAP), established by the WTO, the ITC and UNCTAD to build and strengthen the capacity of sixteen selected African countries to integrate into the multilateral trading system.
- The International Trade Centre, established jointly in UNCTAD and the WTO, serves as a joint technical cooperation agency for operational, enterprise-oriented aspects of trade and works primarily with the business sectors of developing and transition economies to develop exports.
- The OECD/WTO database on TACB, established to provide transparency of TACB delivered, promote information-sharing, minimize duplication, estimate progress of the Doha mandate on TACB and to promote coordination and coherence among donors.

Second, the WTO Secretariat plays a lead role in advocating and catalyzing donor action on TACB. The WTO Secretariat and Director-General have been serving as the core champions for the Aid for Trade Initiative. In September 2007, the WTO Director-General led a pledging conference for the Enhanced Integrated Framework. The WTO Secretariat also serves as the information clearing-house for data on trade related assistance to the Cotton Sector in West and Central Africa. More recently, it has responsibility for gathering and making available information on the new Trade Facilitation Needs Assessment.

Table 1. Donor Contributions to the WTO Global Trust Fund (2005-2007)

	<b>Donor Contributions Received (in Sfr millions)</b>
Germany	6.89
Sweden	6.80
Norway	5.93
UK	4.56
Netherlands	4.09
Denmark	2.75
Japan	2.51
USA	2.45
Canada	1.62
Australia	1.43
Ireland	1.25
Italy	1.25
France	1.20
Luxembourg	1.11
Korea	.92
European Commission	.80
Other bilateral donors	2.32
<b>Total</b>	<b>48.81</b>

Source: WTO Website (updated 12 July 2007)

	<b>Earmarked Donor Contributions Received (in Sfr millions)</b>
Finland	1.48
Spain	1.02
	<b>Other Contributions Received for WTO TACB</b>
Netherlands — Trainee Programme	2.48
Denmark — Internship Programme	0.58
Ireland — Internship Programme	0.38

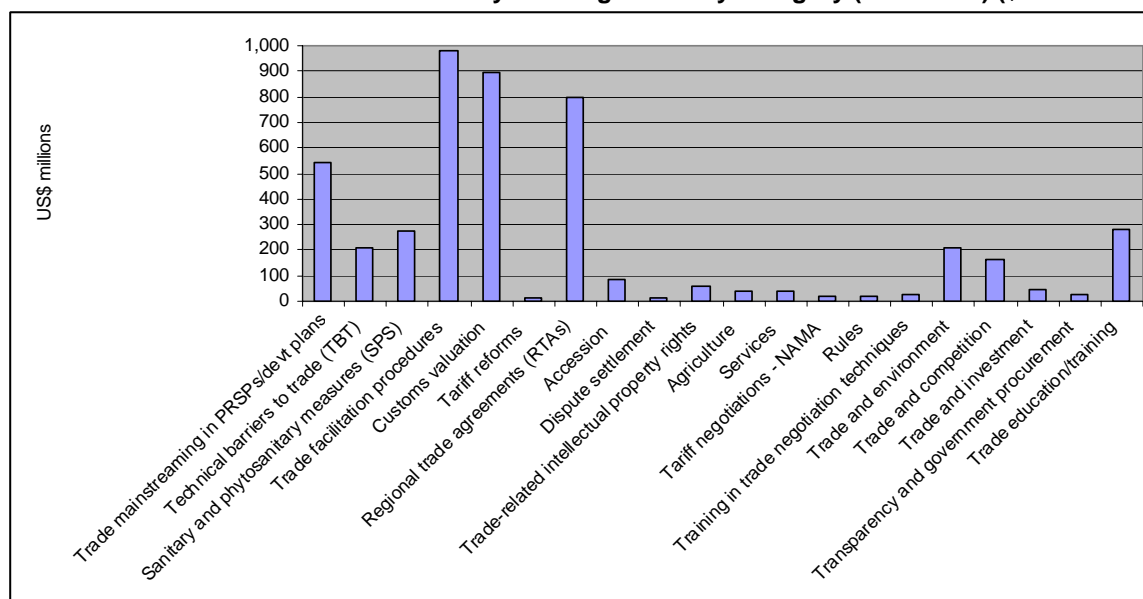
Beyond the multilateral donors already mentioned, the range of donors and providers providing trade-related TACB also includes:

- Regional organizations and development banks, such as UN Economic Commission for Latin America and the Caribbean (ECLAC) and the Inter-American Development Bank (IADB). Other UN specialized and voluntary agencies, including the World Health Organization (WHO), the UN Food and Agriculture Organization (FAO), the World Customs Organisation (WCO), the

World Intellectual Property Organization (WIPO), the United Nations Environment Programme (UNEP) and the United Nations Industrial Development Organization (UNIDO). UNIDO, for example, is working to assist with the development of the productive capacities of industry and to build capacities to produce exportable products. The FAO works in the agricultural sector, particularly to help countries meet product standards. The WHO provides support to developing countries with respect to a public-health friendly approach to TRIPS implementation.

- Bilateral government agencies, including development agencies, customs agencies, patent offices, and environment ministries.
- Non-government sector, including non-government organizations (NGOs), private consulting companies, academic centres, research institutions and industry groups.

**Table 2. The WTO's TACB for Trade Policy and Regulation by Category (2001-2007) (\$US millions)**



Source: OECD/WTO Database

## Existing and Ongoing Reforms

The core problems facing the majority of trade-related TACB are that it is too donor-driven and lacks local ownership. Over the past decade, an array of evaluations by donors and independent experts has highlighted serious shortcomings in the design, quality and delivery of trade-related TACB that stem from this fact. The key challenges commonly referred to in the literature include: inadequate assessment and articulation of the needs of recipient countries; inadequate scale, predictability and continuity of funding; biased content of assistance and advice; inadequate evaluation and donor coordination; poor quality design and execution of assistance; ineffective TACB; too little local ownership; weak support for local capacity and excessive use of local consultants; and weak linkages to the broader development strategies of recipient countries.

The concerns have spurred numerous efforts by donors and recipients to better align TACB *priorities* with the trade and development needs of developing countries. This has included attempts to improve effective participation by developing countries in the planning and implementation of TACB at the global, regional and national level. To promote more demand-driven TACB, donors have committed themselves to stronger adherence to the principles of aid effectiveness embodied in the Paris Declaration; stronger linkages to development and poverty-reduction strategies; increased predictability; improved donor coordination; more evaluation; improved needs-assessments; and a greater focus on regional approaches.

There have also been specific reforms to the core multilateral TACB initiatives. The WTO Secretariat has adopted several measures to improve the quality of its TACB. The JITAP has also been reformed twice to respond better to the needs of developing countries in Africa. In addition, the limited success of the Integrated Framework has prompted governments, after several years of discussion, to take up recommendations for an *Enhanced* Integrated Framework (EIF) which is scheduled for launch in late 2007. The EIF envisages a more effective partnership between national stakeholders in developing



countries, donors and IF agencies and the establishment of national implementation arrangements, which will support a national Focal Point. An IF Board will have overall responsibility and a new IF Secretariat will be established, administratively housed in the WTO and headed by an Executive Director. The Executive Director and Secretariat staff will support governments in managing the IF process, providing assistance to national focal points and national implementation arrangements. A third aspect of the IF enhancement, namely the provision of increased, predictable and additional funding on a multi-year basis, began in earnest in September 2007 with a pledging conference. It remains as yet too early to evaluate the impacts of many of these reforms and new commitments.

## Outstanding Governance Challenges

Despite efforts to improve the management and demand-driven nature of TACB, several important governance challenges remain: (1) donor control over resources and (2) weak national ownership.

### ■ Donor Control Over Resources

#### *Gap between TACB needs and commitments*

While there has been a large overall increase in TACB funding since 2002, TACB resources still fall short of that which developing countries need in order to harness the potential benefits of their participation in the WTO system. Since the launch of the Aid for Trade Initiative, several developed countries have pledged to increase trade-related development assistance. In 2006, the G-8 set a goal of \$4 billion by 2010 but without any precision about the scope of activities included in that figure and how much this amount would reflect additional, new support to countries. At the Hong Kong WTO Ministerial, Japan announced development assistance spending on trade, production and distribution infrastructure of US\$10 billion over three years, the U.S. announced Aid-for-Trade grants of US\$2.7 billion a year by 2010, and the E.U. and its Members announced trade-related development assistance spending of €2 billion per year by 2010. In each case, the extent to which these pledges will actually represent increased spending on TACB is uncertain as is the prospect that governments will meet these targets. In particular, questions have arisen as to whether assistance for 'trade-related' infrastructure will represent new resources or simply the relabelling of existing development assistance in that area. A further concern is that new support for trade-related development assistance ought not to divert resources from other important development priorities.

#### *Uneven donor commitment to multilateral TACB initiatives*

Developed countries vary widely in the proportion of support they devote to multilateral TACB initiatives. Post-Doha, many countries boosted their participation in multilateral initiatives and programmes, such as the WTO's Doha Development Agenda Global Trust Fund, the Integrated Framework, the International Trade Centre and the Joint Integrated Technical Assistance Programme (JITAP) (See Table 3). By far the largest supporters of multilateral TACB are Switzerland, Sweden, Norway and the Netherlands. The United States and Japan, on the other hand, trail far behind (see Table 4).

Beyond the multilateral TACB initiatives listed in Table 3, it is also important to consider which donors support the work of UNCTAD – the UN agency specifically dedicated to promoting development in the global trade regime. The regular budget of UNCTAD comes from the UN's regular budget, to which the United States and Japan are the highest contributors overall (contributions are broadly based on the relative capacity of each country to pay). The majority of UNCTAD's technical cooperation activities, however, are funded through voluntary contributions to its Technical Cooperation Trust Funds. In 2006, the largest donors to these Trust Funds were Norway and the UK, followed by the European Commission, Switzerland, Netherlands, Sweden and France. Here again, Japan and U.S. lag behind.

**Table 3. Total Funding for Multilateral TACB Initiatives (2001-2006) (\$US millions)**

	2001	2002	2003	2004	2005	2006
<b>International Trade Centre</b>	14.0	16.09	19.20	18.75	21.05	25.30
<b>JITAP</b>	2.05	1.88	1.26	2.48	2.31	1.28
<b>Integrated Framework</b>	3.27	5.85	5.98	10.48	9.66	16.35
<b>WTO Trust Funds</b>	7.10	12.45	18.75	14.56	24.60	20.15
<b>TOTAL</b>	<b>26.42</b>	<b>36.27</b>	<b>45.01</b>	<b>43.67</b>	<b>57.64</b>	<b>63.11</b>

Source: OECD/WTO Database

**Table 4. Combined Contributions of Selected Donors to Multilateral TACB Trust Funds (2001-2006)** (i.e., for International Trade Centre, JITAP, Integrated Framework and WTO Trust Funds)

Country	Combined Contribution to TACB Trust Funds (\$US millions)
Switzerland	38.69
Sweden	31.0
Norway	28.45
Netherlands	22.6
Germany	19.5
Canada	15.3
United Kingdom	15.8
United States	11.8
Japan	4.8

Source: OECD/WTO Database

While the various multilateral initiatives devote considerable resources to conducting TACB needs-assessments and devising national TACB strategies, the proportion of TACB activities which donors themselves consider to be related to these multilateral priority-setting processes is disappointingly low. According to the OECD/WTO TACB database, activities that donors reported to the database as related to the Integrated Framework in 2005 totaled US\$131.7 million. In the same year, the total amount reported on TACB activities overall was US\$3.16 billion (approximately US\$923 million for trade policy and regulation and US\$2.2 billion for trade development). Between 2001-2006, the total amount governments devoted to JITAP-related activities was US\$17 million. Total TACB to Africa over the same 2001-2006 period was far larger, totaling some US\$1.09 billion for trade policy regulation and US\$3.26 for trade development. While JITAP does not cover all African countries, it remains notable that JITAP's *multilateral* approach to trade-related TACB in Africa attracted only a relatively small proportion of the total support to the region. At the national level, the Netherlands and the UK government stand out as countries that have made systematic efforts to link their trade-related TACB to broader foreign policy goals with respect to development – and to promote coordination and coherence among relevant agencies at the national level.

#### *Unpredictable and inconsistent donor support*

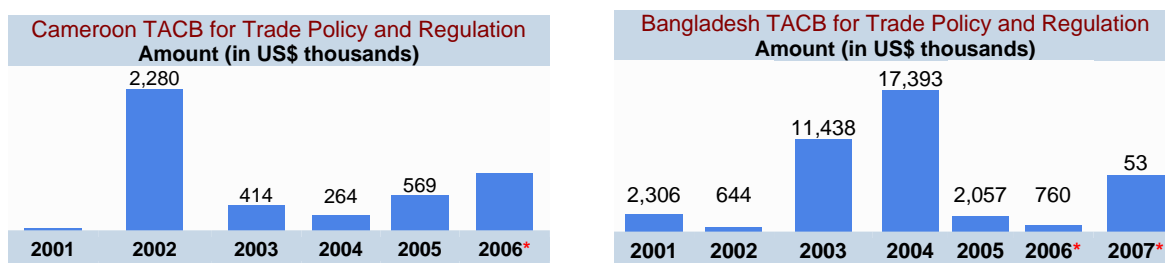
Funding for TACB is firmly under the control of donors and subject to the vagaries of their budget processes and changing trade and foreign policy priorities. Table 5 provides a snapshot of fluctuations in donor support for trade-related TACB in the area of trade policy and regulation for two countries. Similar variations are found in most other developing countries. Importantly, in some instances, steep fluctuations may indicate the provision in a single year of large funding for multi-year activities. Yet, a detailed review of summaries of the particular donor activities in countries reveals that most countries receive a great number of small one-off, short-duration projects without a multi-year framework. The lack of consistent and predictable funding limits the ability of recipient countries to advance systematic approaches to planning improved trade capacity.

#### *Donor-driven priorities*

While most donors now profess that developing countries should lead the design, orientation, focus and implementation of TACB, the reality is that developed countries continue to allocate resources according to their own national priorities. As noted above, most governments still prefer to channel the bulk of their TACB through bilateral channels where they have the greatest possibility to align TACB with their own priorities. Even where funds are allocated to support multilateral initiatives such as the IF, donors can still pursue an *à la carte* approach, choosing from a menu of needs to earmark support for those projects best aligned with their own priorities.

Given the contest over how developing countries implement their WTO obligations, it is not surprising that there are a vast range of donors that provide TACB with the hope of influencing the interpretation and implementation of WTO rules. Bilateral agencies frequently hire private consulting companies and industry organizations to deliver TACB that advances their interests in recipient countries. Many of these actors also independently provide advice using their own resources. In some cases, particularly in the case of the TRIPS Agreement, NGOs and scholars are also active providers of assistance that encourages countries to take full advantage of the available policy space in WTO agreements.

**Table 5. Variation in TACB to Selected Recipient Countries (2001-2006)**



\*Partial data, Source: WTO/OECD Database

In the context of such competition among donors, is there a role for 'neutral' advice? Amidst political contestation about the nature and interpretation of WTO rules, how does one define what constitutes 'neutral' advice? A significant portion of the total technical assistance to developing countries for trade policy and regulation is provided by the WTO Secretariat. The World Intellectual Property Organization, has similarly been tasked with providing 'neutral' TACB to developing countries for TRIPS implementation. While arguably more neutral than TACB from bilateral sources, critics rightly point out that 'neutral' advice too often advances a simple compliance-oriented perspective on WTO Agreements, even those that are deeply contested. A further criticism is that 'neutral' advice may fail to empower countries to approach the implementation of WTO commitments in ways that support their development objectives. In the case of the TRIPS Agreement, for example, studies have found that both the WTO and WIPO have failed to provide developing countries comprehensive advice about the range of flexibilities and options available to them in the TRIPS Agreement to tailor implementation to advance their development, and in particular, public health needs.

## 2. Weak National Ownership

### *Weak support for local capacity*

Donors too often favour short-term, one-off or stand-alone TACB over long-term investments in durable trade policy processes and local institutions in developing countries. In addition, donors continue to use their own consultants, project managers and private sector to conduct needs assessments and implement TACB rather than to investment in developing country consultants, legal teams, NGOs, universities or think-tanks to carry out these tasks.

A further problem is that the vast majority of TACB from bilateral and multilateral donors primarily targets government agencies. While the International Trade Centre provides significant support directly to private sector initiatives, particularly for small and medium-sized enterprises, too little official TACB is directed toward national research institutes, think tanks or NGOs that may play a critical long-term role in assisting the formulation and implementation of national trade policy. The challenges are particularly stark in the case of training. In many cases, the absorption capacity of governments is limited - training programmes too often retrain the same individuals with too few options for further, higher levels of training. Moreover, as is widely acknowledged, there is significant turnover in governments and individuals once trained frequently shift responsibilities.

### *Difficulties managing multiple donors*

At the national level, developing countries are faced with the task of managing TACB from a host of different donors. Table 6 provides examples of the large number of donors that provide TACB in particular countries. As noted above, developing countries may face competition between various multilateral and bilateral donors. In addition, non-state donors, such as NGOs and industry groups, are also often present and advance their own particular interests with respect to the country's policies and activities.

### *The Catch 22: too little capacity to set TACB priorities*

Developing country governments frequently lack the capacity to discern and articulate their own requirements for capacity building. At the international level, resource constraints mean that developing countries participate only marginally in some of the key multilateral decision-making processes on TACB, such as the Committee on Trade and Development's process for determining the WTO's TA Plans. At the national level, the scope for developing country governments to articulate TACB priorities and take

**Table 6. Number of Donors providing TACB to Selected Recipient Countries (2001-2006)**

	<b>Donors providing TACB for Trade Policy and Regulation</b>	<b>Donors providing TACB for Trade Development</b>	<b>No. of Donors</b>
<b>Bangladesh</b>	Japan, US, Korea, Australia, Canada, EC, Norway, Netherlands, ADB, UNESCAP, UNCTAD, UNIDO, WCO, WTO, IMF, AITIC, IDA (World Bank)	Japan, UK, Belgium, German, US, Korea, Finland, EC, Norway, UNDP, ITC, ADB	22
<b>Cameroon</b>	US, Canada, Japan, Korea, France, IDA (World Bank), ITC, UNCTAD, IMF, WCO, WTO, AITIC	France, Italy, Belgium, US, Korea, France, Japan, Canada, Germany, EC, Switzerland, UNIDO, ITC, FAO	18
<b>Myanmar</b>	Japan, Korea, Thailand, AITIC, WTO, UNESCAP	Japan, Korea, Thailand, Norway, AITIC, WTO, UNESCAP, FAO	8
<b>Peru</b>	US, Germany, Spain, Japan, Korea, France, Canada, EC, IADB, IMF, IDA (World Bank), WTO	Belgium, Japan, Italy, Germany, Korea, EC, US, IADB,	14
<b>Uganda</b>	US, Japan, France, Korea, Denmark, Norway, EC, IMF, ITC, UNCTAD, WCO, AITIC, WTO	Netherlands, Italy, Sweden, UK, Germany, US, Japan, Denmark	17

Source: WTO/OECD Database

advantage of available TACB is frequently limited by human resource constraints. TACB needs-assessments are thus still too often the work of external consultants dispatched to countries for several weeks with little emphasis on building durable processes of consultation or participation with governments or other stakeholders. While there has been considerable emphasis on linking TACB assessments to PRSPs and other development-planning processes, it is also important to note that these too also widely-criticized in the development community as donor-dominated processes.

### Priorities for Future Debate

For developing countries to extract maximum benefit from the trading system, the focus of TACB must be on empowering developing countries to challenge the existing balance of power in trade decision-making, to act independently with respect to domestic reforms, and to build their power in negotiations.

Improvements will rely on developing country leadership to push for more effective TACB and national efforts to better articulate TACB needs and extract value from available TACB resources. Long-term governance priorities include greater attention to de-linking TACB resources from donor priorities and political pressures, promoting development-oriented advice, increasing the quantity of TACB, and putting developing countries more firmly in the drivers' seat. In this respect, priorities for future debate include:

- *Increasing support for TACB that builds durable processes, institutions, and capabilities within and outside governments*

The empowerment of developing countries in trade demands support for long-term institutional capacity both within developing country governments and in the society at large. To exercise greater influence in the global trade system, developing country governments also need to be able to draw systematically on independent research, advice and expertise from stakeholders within their country.

With these goals in mind, TACB should focus greater attention on building domestic policymaking processes which involve coordination among the spectrum of relevant government agencies and consultation with necessary stakeholders in parliaments, the business sector, NGOs, academia and trade unions. There should also be a diversification in the number of suppliers and recipients of assistance within developing countries, with priority given to those organizations with the greatest potential to provide independent and responsive advice unencumbered by bureaucratic constraints and donor-driven agendas. Potential recipients outside governments include business, academia, research centres and NGOs that can serve as durable source of trade policy advice to government. A specific, related goal should be to support independent research centres, university programs, consultants, think-tanks, and NGOs within developing countries. The WTO's Economic Research and Statistics Division has already played a leadership role in this respect by forming partnerships at the regional level with networks of universities, thereby decentralizing a growing range of its research and engaging scholars and experts with a diversity of views. The Budget for this Division increased from CHF8.2 million to CHF

11 million between 1999 and 2006. The priority now for donors must be to channel increased resources for research directly to actors within developing countries.

To support long-term improvements in capacity, a starting point must be to improve the quality of the needs assessments that aim to set the framework for TACB. Here, the *Enhanced* Integrated Framework (EIF) has a critical role to play. The EIF's diagnostic studies should be based on a process in developing countries that involves the full range of relevant departments and stakeholders. Such improvements will ensure that the needs-assessments and the priorities they establish enjoy local ownership and institutional support.

- *Strengthening development-oriented TACB*

Given the deep divisions on the precise scope of WTO obligations and their development implications, the focus of TACB should be explicitly development-oriented rather than 'neutral'. For TACB to serve its purpose of empowerment, the priority must be for technical assistance and training that helps countries identify their specific national interests in respect of WTO rules and negotiations and to evaluate the options for advancing their development objectives.

Despite efforts by the WTO Secretariat to improve the quality of its TACB, there is a strong case for rethinking the appropriate scope of the Secretariat's engagement in the direct provision of TACB. If as argued above, the empowerment of developing countries calls for TACB that is development-oriented, there should be serious consideration given to re-allocating the WTO's resources for TACB on trade regulation and policy to other actors. Such resources should still be administered multilaterally (not bilaterally) but through an international agency with an explicit *development-oriented* mandate to provide technical *cooperation* to developing countries, such as UNCTAD, UNDP or through a new independent agency created for this purpose.

Importantly, the WTO Secretariat does still have an important role to play in the realm of TACB. It should continue to provide WTO Members basic information about WTO Agreements. Moreover, a more discrete role in the provision of TACB would make the WTO Secretariat a more credible and compelling advocate for increased and better quality TACB overall, including for greater support to multilateral TACB initiatives. In addition, the WTO could maintain its role of facilitator and administrator of the IF as envisaged by the *Enhanced* Integrated Framework.

- *Improving independent monitoring and evaluation of TACB*

The provision of TACB is a critical component of developed country commitments in WTO Agreements. The OECD/WTO Database represents an important step toward greater transparency of donor actions in this respect. Many donors fail, however, to provide full and timely information to the database and information often comes too late for it to be useful in preventing duplication. Increased efforts should be made to ensure that the information gathered in the database is analysed and disseminated in a useful form to delegations in Geneva. The database could, for example, be a useful source of information for an expanded Trade Policy Review process that would also monitor the extent to which developed countries meet their TACB commitments.

A further option would be to charge a small independent agency with publishing information on the performance of each donor. The performance criteria could include multi-year funding; support for multilateral TACB frameworks; support for activities identified as priorities by national needs assessments; use of developing country consultants and experts; and support for long-term institution-building.

Proposals for independent ex-poste and ex-ante peer evaluations of trade-related TACB should also be pursued. Here, the focus should be not just on the technical implementation of particular projects but also on the overall contribution of TACB projects to the goal of ensuring that countries put in place trade policies, institutions, and initiatives that advance their development. A rolling programme of external TACB impact evaluations should be undertaken, published and made available to developing countries, with the results openly discussed among donors and beneficiaries.