

CHAPTER IX

The role of the Director-General and Secretariat

337. The Secretariat of the World Trade Organization with little over 600 staff (and 100-150 temporary staff at any one time) is one of the smallest among major international institutions. Given its importance it is probably the worst funded. It has traditionally been highly skilled, devoted to its mission and well-respected. The professional staff, based in the WTO's single office in Geneva, combines the talents of economists, lawyers, trade policy experts and others. They provide an institutional memory for delegates and a boundless source of advice to an increasingly diverse collection of constituencies - governments, business groups, non-governmental organizations and other intergovernmental bodies among them. They service the delegate bodies of the WTO, present the institution to the outside world and increasingly deliver technical assistance to developing countries.

338. The Secretariat continues, rightly, to be well-regarded. Nevertheless, for some years, the mutual confidence between delegations and WTO staff has been less obvious than in the past. Certainly, the WTO's employees have been dissatisfied with their conditions of service and this has been an aggravating factor. That is not a matter for this Report. The deeper problem appears to be a view that, in a "Member-driven organization", the Secretariat's role must be solely one of support, not of initiative or even of institutional defence of the WTO system. As we have been moved to comment in the previous chapter, the principal losers from this attitude are the WTO Members themselves.

A. THE SECRETARIAT IS WELL-REGARDED, BUT THERE ARE CONCERNS

339. In practice the Secretariat continues quietly to contribute broadly and effectively to the work of the WTO's delegate bodies. However, there is cause for concern if a more timid and diminished role is leading to lost efficiency for the WTO. Further, the absence of a strong and

coherent voice from the Secretariat leaves a vacuum to be filled by mixed - and sometimes grossly misleading - public messages on the nature, objectives and activities of the multilateral trading system. Of more concern is a tendency for other international institutions to fill the gap, not always in a manner that serves the system well. Those who argue for a merely passive Secretariat role may find that its influence over trade debate is thus reduced rather than enhanced. In the case of some governments and, indeed, certain non-governmental organizations, that is probably precisely the objective. If so, it is an extremely short-sighted view.

340. Yet the Secretariat's status is recognized in the Marrakesh Agreement: "Members...shall respect the international character of the responsibilities of the Director-General and of the staff of the Secretariat and shall not seek to influence them in the discharge of their duties." Clearly, the role of the Secretariat was not intended simply as the servicing of the WTO's committees and councils. There is, surely, a duty to help ensure that the WTO system functions efficiently, is properly understood and delivers on its mandate.

341. It must be the case that the Secretariat has a duty of absolute neutrality, care and respect in dealing with the rights and obligations of Members. The Secretariat may not take decisions or act in a manner that prejudices those rights and obligations. However, as discussed below, the Secretariat has a parallel responsibility, as guardian of the system - "Guardian of the Treaties" might be an appropriate expression - to act in the common interests of Members.

B. THE ROLE OF THE DIRECTOR-GENERAL SHOULD NOW BE CLARIFIED

342. The role of the Director-General is not defined in the Marrakesh Agreement. Article VI(2) calls on the Ministerial Conference to appoint the Director-General and "adopt

regulations setting out powers, duties, conditions of service and term of office...". Aside from determining conditions of service, this mandate has never been fulfilled; perhaps it now should be.

343. Is the lack of a job description a drawback? Certainly it makes the office over-dependent on the prevailing and often very transient political mood of Members rather than on the long-term interests of the institution. In response, Directors-General have increasingly seen their role as a form of international spokesperson and marketing executive. That means travelling widely and frequently: regular contacts with political leaders in capitals, while often of utility, have reduced the presence and role in Geneva. This is a serious change of emphasis. It has undermined the notion of leadership of the system as distinct from leadership of the Secretariat. Indeed, in previous periods, Directors-General of the GATT were sometimes regarded virtually as spiritual leaders of the system. Their words were given considerable weight in the substantive business and direction of the institution.

344. Neither approach to the Director-General's role is necessarily exactly the right one for current circumstances. However, it has to be recognized that if the head of the organization is reduced to a spokesperson and international advocate for free trade then he or she is unlikely to have a big impact at the diplomatic, negotiating level in Geneva. Further, the imbalance in the Director-General's activities can generate a mismatch between apparent high-level political support for active engagement and movement offered in capitals and the maintenance of inflexible negotiating positions in Geneva. That adds to the impression that both the Director-General's role and the diplomatic processes in Geneva are ineffective.

345. There is also a role for the Director-General in the delegate bodies of the WTO. Traditionally, the Director-General has chaired the Trade

Negotiations Committee (TNC) - sometimes in a purely personal capacity - during trade rounds; and he does so currently in the Doha Round. That practice should be continued. Given the continuity and neutrality that the head of the Secretariat can provide, the chairmanship role might be extended, as appropriate, to other committees and councils when necessary, as was the case in the past. Arguably, the Director-General should chair the General Council. In any event, since he represents the institutional memory and authority of the WTO, delegations should not shrink from turning to the Director-General as an "honest broker" as well as for advice on procedure and precedent. That is equally the case in the context of the potential roles outlined for the Director-General in the Dispute Settlement Understanding.

346. Finally, there is the question of the Director-General's duty to manage the Secretariat. In recent years, there has been a tendency towards micro-management by Members, particularly through the Budget Committee. While Members will always have oversight of overall spending through the broad lines of the budget it is debilitating for the organization and discouraging for staff for oversight to become detailed interference in management. The Director-General must have an independent right to manage - albeit within the limits of a budget. Confirmation of that right in written "powers and duties" of the Director-General would be a worthwhile step forward.

347. Consequently, the Consultative Board advises that, as required by the Marrakesh Agreement, the "powers and duties" of the Director-General now be spelled out clearly by the General Council, in part on the basis of the advice of present and past holders of the post.

C. APPOINTING THE BEST CANDIDATE AS DIRECTOR-GENERAL

348. Naturally, the capacity of the Director-General to provide reinforcement to the work of delegations depends both on the quality of the Secretariat and his or her own personal background. The contrast in perceptions of the objectives of the head of the WTO Secretariat has clearly affected the views of Members on the qualifications required of candidates for the position. Should they seek a high political profile or someone with a detailed, technocratic understanding of the institution - a mixture of the two is a rare species. As discussed below, if the emphasis on political experience and profile is to predominate then it may have implications for the appointments made below Director-General level.

349. There remains a need to ensure rationality in the procedures for the appointment of the Director-General and his deputies. The avoidance of difficult choices between two favoured candidates through back-to-back three-year appointments is not an acceptable or viable procedure. The adoption of such an approach in 1999 was unfair to the two most recent incumbents and has served the WTO poorly. Any individual, no matter how experienced or well informed, takes time to adjust and become effective in this unique post.

350. The procedures adopted by the General Council for the appointment of Directors-General were a step in the right direction and are currently being put to the test. These include an appointment term of four years, renewable for a further four years - an arrangement with which the Consultative Board fully concurs. While the procedures allow for voting as a last resort, in the interests of demonstrating the broadest possible acceptability of a successful candidate voting should be avoided. That is particularly the case if one candidate is clearly close to commanding consensus support.

351. The key lies less in procedure than in political acceptance of the benefits of appoint-

ing the best, properly qualified candidate. That partly depends, again, on correctly defining the role of the Director-General. But it also requires a more realistic and responsible attitude by Members. Regional sequence is not a greater priority than quality. Nor is backing a domestic or regional candidature for the sake of having a sympathetic ear in the Director-General's office. The reality is quite the contrary. Any appointee of quality and credibility must clearly distance himself or herself from past associations, including geographical origin. The advantages of promoting a successful candidate may include some short-term international kudos, but never favours or benefits of substance.

352. For these reasons the Consultative Board would favour the abandonment of the agreement that permits WTO Members to make nominations only of their own nationals or that candidates must have the backing of their own governments. Indeed, there would be more logic in disallowing such national nominations completely. Any tendency towards alternating between developing and developed countries and any regional sequencing should be avoided. By the same token we would favour reducing the intensity of candidate "campaigns". A further option requiring that an initial independent search for appropriate candidates be carried out may be worth further examination.

353. The Consultative Board fully endorses the position that technical competence and appropriate experience should be prerequisites in the appointment of Directors-General.

D. A NEW APPROACH TO MANAGEMENT AND THE DIRECTOR-GENERAL'S DEPUTIES

354. Since the WTO was established, it has become the practice for the Director-General to appoint four deputies. There has been little serious consideration given to that number; the prevailing view has tended to be that it allowed for some geographical balance at the most senior levels of the Secretariat. It is not at all evident that more than two deputies are

necessary, especially given the large number of divisional directors who could appropriately report directly to the Director-General.

355. However, the optimal number of deputies depends heavily on what the membership expects of the Secretariat. If governments want a passive Secretariat and a Director-General acting largely as a salesman for the WTO, then there is little point in the expense of four, three or even two deputies. **If the Director-General is to be a high-profile political figure, spending considerable time outside Geneva, an alternative configuration may be appropriate. That would be the appointment of a single deputy as a chief executive officer equivalent. That deputy would run the Secretariat and take a frontline responsibility for the interface between the Secretariat and Geneva delegations. Such a high-level deputy would also be in a position to chair key councils or committees, undertake consultations and stand in for the Director-General as necessary.**

356. Alternatively, if the membership wants an active, innovative and fully engaged Secretariat then two or, at most, three deputies may be justified: if three, then one among them might still take on the chief executive role, depending on the background and wishes of the Director-General. **In any event, the final formulation must remain the prerogative of the Director-General.**

357. **Whatever the approach adopted at the senior levels of the Secretariat it should allow a much-strengthened management structure and culture to be put in place.** Dissatisfaction among the staff has two principal roots. One is a slack management structure and unwillingness to develop a corporate and collegial approach to working practices. Various management techniques have been introduced in recent years with varying degrees of success. What seems to be lacking is a sense of community and corporate vision. The Secretariat may be small by the standards of other international

agencies, but it is still a substantial institution. If its staff cannot see their roles clearly within a well-defined management culture their efforts will remain splintered and often unfulfilling.

358. A second root of staff dissatisfaction has evidently been the terms of compensation and other conditions of service. While the reluctance of Members to increase the levels of compensation may persist, they must be vigilant in maintaining conditions which attract and retain the very best individuals. There will never be a shortage of candidates to fill the rare vacancies. However, Members must draw a distinction between quantity and quality. By the same token, they should also refrain from interfering with recruitment processes in the name of geographical balance or any criteria other than qualifications, suitability and potential performance. This is not to argue that balance is not valuable - for one thing, all representatives need to feel comfortable in seeking the help or advice of the Secretariat. However, there is no reason to believe that reasonable geographical and language balance will not be achieved on the basis of recruitment of the best candidate without the heavy-handed intervention of governments and delegations.

E. THE SECRETARIAT IN A “MEMBER-DRIVEN” ORGANIZATION

359. A third source of tension has been the reassertion of the principle of the WTO as a “Member-driven” organization. What does such an energetic insistence on this principle mean for the Director-General and the Secretariat? How does it impact on the public status and presentation of the multilateral trading system?

360. A Member-driven organization is a valuable concept in terms of political acceptance in capitals so long as the vehicle is being driven carefully in a direction consistent with its overall objectives. In recent years, the impression has often been given of a vehicle with a proliferation of back-seat drivers, each seeking

a different destination, with no map and no intention of asking the way. That has helped feed a misguided, misinformed public view of the institution. Individually, Members are not always the best guardians of the system.

361. Recent experience suggests that when the membership is unable or unwilling to move forward, the system's image and public support suffer. Members understandably portray the WTO in terms of domestic political preoccupations, seldom on the basis of the principles that underlie the system. **The WTO needs a convincing and persistent institutional voice of its own. If Members are not prepared to defend and promote the principles they subscribe to, then the Secretariat must be free to do so. Indeed, it should be encouraged, even required, to do so.** The legitimacy of decision-making is adequately protected by the consensus principle.

362. It is important, therefore, that there be some clarity on the respective roles of the Secretariat and the membership in the broad presentation of the WTO's activities and the promotion of the principles that underlie the trading system. Those principles are little known, yet as valid and valuable now as when they were established in the last century, notably in the years after the Second World War. In large part they are rehearsed in Chapter I.

363. **A helpful starting point may be to see the Secretariat as the guardian of the treaties that comprise WTO law.** At the operational level that infers both an institutional memory and detailed understanding of the system; understanding that should be respected and harnessed willingly by Members. At the public level it should be reflected in consistent, objective but politically sensitive presentation of a coherent system. Critics must be answered, but sometimes outside the framework of the constantly changing, politicized and potentially unbalanced debates, processes and negotiations undertaken by Members. **In short, the Secretariat and Director-General should get back to basics in the manner in which the WTO is presented and defended.**

364. On such a basis, the Secretariat could rightly lay claim to more independence of action and enhanced authority. But that requires mutual recognition by Members, their delegations and the Secretariat of their respective roles and duties. The reassertion by the Secretariat of a neutral role founded solely on the interests of the system ought to make the relationship more efficient and effective.

F. WE NEED A GREATER INTELLECTUAL INPUT FROM THE SECRETARIAT

365. **The membership should also encourage and stimulate a greater intellectual output from the Secretariat.** Clearly, research resources are limited. Publicly available current research is unadventurous although we welcome the launch of the new World Trade Report as a vehicle to deepen public understanding of trade issues. **However, the WTO should be making a pre-eminent intellectual input into public and political debate on trade policy matters, globalization, development and other pressing issues of the day on which the trading system impinges.** It can do so without compromising the negotiating positions or policies of Members - nor, indeed, of its own advice. We see no reason why the status and recognition accorded the WTO's chief economist should be any less marked than that given to his or her opposite numbers in other economic institutions - at least with respect to trade issues. There is no persuasive argument that the nature of the WTO is so different from that of other institutions, like UNCTAD, the World Bank, the IMF and the OECD, that there is something deeply threatening to the rights of Members from Secretariat research findings. Too often, indeed, it is left to those other institutions to make the case for the WTO - or to undermine it.

366. **Further, a clearer - though always careful - lead on policy issues should be emerging from the Secretariat. Members should not be afraid of asking the Secretariat to provide policy analysis.** In any event there is increasing demand for the Secretariat to give policy advice in the context of technical assistance to devel-

oping countries. It is not immediately clear why - outside of resource constraints - it should be more appropriate for other international institutions to provide counsel on WTO issues than the WTO Secretariat itself.

G. THE WTO'S BUDGET - NEW APPROACHES, RESPONDING TO NEW DEMANDS

367. Technical assistance demands, in particular, raise the question of the adequacy or otherwise of the Secretariat's manpower and financial resources. As has been noted in an earlier chapter, a large amount of such assistance is now available, funded and managed in many different ways - including through WTO trust funds, bilateral funding by governments and other institutions. Little technical assistance is funded directly through the WTO budget - a situation that could usefully be corrected to ensure some security and predictability for these efforts in the future.

368. Individually, no doubt, the institutions and governments backing technical assistance programmes, and the profusion of private consultants on which they rely, are achieving results. Are the results optimal? Probably not. Although greatly improved and strengthened over the past decade, the WTO's working relationships with the World Bank, the IMF, UNCTAD and others, in this area, still leave something to be desired. The Integrated Framework - which operates through these and other organizations - is a promising initiative that has had limited success. (See also Chapter IV.)

369. There may be more cost effective and efficient ways to deliver technical assistance. One response to the proliferation of largely uncoordinated and sometimes inconsistent policy advice being given to developing countries might be to move all official WTO-related technical assistance out of the respective secretariats and into a semi-independent agency. Staffing might be through short-term secondments from the relevant organizations,

under WTO management and administration. Such an agency might also be charged with longer-term capacity building implementation assistance - including for the private sector in developing countries.

370. The Secretariat's capacity to deliver technical assistance is, of course, only one aspect of the general funding and manpower issue. Some divisions are hard pressed to meet their obligations as things stand - notably in the dispute settlement area. Others will find themselves stretched when Doha Round negotiations begin to advance in earnest and when implementation of the results gets underway. As we have suggested already, it is crucially important that the Secretariat has the capacity and expertise to present the institution and the multilateral trading system globally. That infers adequate resources for media relations - particularly with respect to developing countries - and innovative public information initiatives. In Chapter V, we noted the relative paucity of staff in the division taking prime responsibility for outreach to NGOs.

371. **While we would hesitate to recommend a vast increase in the WTO budget (though a case for that could easily be made), there will certainly need to be more meaningful increases, and annual growth rates in excess of other better-funded institutions.** Member governments must keep in mind that the WTO is a crucial instrument for managing a globalizing economy. Globalization is likely to proceed apace: that means fundamental changes to which the institution and its Members must respond. Thus, when considering the funding of the WTO, finance ministries need to have imagination and some flexibility, of a kind that has not always been evident since the WTO was established. Tying the hands of an institution like the WTO - which represents a miniscule share of national budgets yet delivers benefits far out of proportion with the investment - is, to say the least, counterproductive.