



## Reforming and Strengthening the WTO: *Some Reflections and Suggestions*

### Introduction

The public perception of the World Trade Organisation (WTO) is becoming more and more synonymous with the Doha “Development” Round, and the Round with missed deadlines or even the possibility of failure. Although WTO’s regular work does not attract the same attention as (sometimes spectacular) trade bargaining, it is no less important for the functioning of the multilateral trading system (MTS). During the financial and economic crisis, for instance, the WTO set up a special mechanism under its surveillance mandate to detect protectionist measures and, thereby, retain Members from applying them extensively.

In the run-up to the Seventh WTO Ministerial Conference, which took place in Geneva, during November 30-December 02, 2009, various suggestions were put forward by Members, academics and civil society, concerning the reform and strengthening of WTO’s regular functions. One remarkable proposal that was sponsored by a diverse group of developed and developing countries called for the establishment of a “deliberative process to review the organisation’s functioning, efficiency and transparency and consider possible improvements” (WT/MIN(09)/W/1). Unfortunately, the proposal was not taken any further, due to the resistance of a few other Members. This illustrated the need for “updating” the organisation, on the one hand, and the difficulty of bringing about real changes, on the other.

This briefing paper seeks to contribute to the ongoing reform discussion and focuses on three areas: the first section reviews WTO’s objectives and puts them into the context of the global development debate. The second section takes up some of the fundamental criticism of the WTO and discusses its justification. The third section explores two rather neglected WTO areas, i.e., the Trade Policy Review Mechanism (TPRM) and the WTO accession process and offers reform proposals. It is argued that comparably small procedural improvements would already have significant impacts. They could be implemented

simultaneously with the Doha Round, would allow the WTO to better contribute to the achievement of its objectives and, thereby, to counteract criticism.

### Review of WTO’s Objectives

The agreed objectives of the WTO are enshrined in the Preamble of the Marrakesh Agreement establishing the WTO (see Box 1).

#### Box 1: Preamble of the Marrakesh Agreement Establishing the WTO

“[...] Recognising that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world’s resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development, [...]”

As its predecessor, the General Agreement on Tariffs and Trade (GATT), the WTO is primarily a market-oriented and government-dominated organisation. It aims at, and has successfully promoted, the expansion of trade in goods and services. On the other hand, the objectives of raising standards of living, ensuring full employment and sustainable development have not been addressed sufficiently; some critics would even claim that they had fallen into oblivion. This became obvious by the controversial discussions on the development dimension of the Doha Round and on the Aid for Trade (AfT) initiative. Remarkably, neither the GATT nor the WTO put fully into

practice the original idea of the International Trade Organisation (ITO), which world leaders had agreed upon in the Havana Charter that was adopted in 1948, but never came into force. It was a comprehensive and farsighted document that regarded international trade as a means towards economic and social prosperity, taking employment into particular consideration.

The open, rules-based and predictable MTS allowed developed and developing countries to use trade as an instrument and leverage for development. However, a number of developing countries, mainly in sub-Saharan Africa, have been less successful. This illustrates that trade openness does not translate automatically into overall benefits for sustainable development in every country and under every circumstance; if managed wrongly, it has even turned out to be counterproductive. Therefore, trade liberalisation should be pursued strategically and gradually and be supplemented by adequate economic and social policies to tackle adjustment costs. WTO Director-General, Pascal Lamy, addressed this issue in 2005 at the beginning of his first term by calling for a “Geneva consensus”, which he later described as a “new basis for the opening up of trade that takes into account the resultant cost of adjustment<sup>1</sup>”. Despite all efforts, this did not change the dominant WTO philosophy in the sense that the narrow focus on progressive trade liberalisation would have been complemented by a strong development orientation. This would require incremental institutional reforms and systemic changes with regard to trade negotiations, but also WTO’s regular instruments and processes, among them the TPRM and the accession process. This does not mean that the WTO should be transformed into a development agency, but its structures should be made more conducive to achieve its stated objectives<sup>2</sup>.

The WTO is not part of the United Nations (UN) system, but it constitutes an important pillar of the global governance architecture. As such, it should contribute coherently to the fulfillment of the overarching objectives of global policy, i.e., sustainable development and the UN Millennium Development Goals (MDGs). Trade and trade-led growth should be pursued with a clear orientation towards the achievement of MDG 1 (eradicate extreme poverty and hunger) and MDG 8 (develop a global partnership for development) in particular. Supachai Panitchpakdi, Secretary General of the UN Conference on Trade and Development (UNCTAD), put it in other words by postulating that the objective should be “development-led trade rather than simply trade-led development”<sup>3</sup>.

## Reflections on Main Criticism of the WTO

The WTO has long been criticised for its lack of credibility, accountability, transparency, legitimacy and relevance. The following considerations seek to contribute to this divisive and often ideological debate by offering a rather

sober perspective and assessing of whether the criticism is justified or not. It is argued that much of the criticism could be counteracted effectively by mainstreaming the objective of sustainable development in the WTO and adjusting its mechanisms to that effect.

(i) **Credibility:** The credibility of an organisation can be measured by the extent to which its work and rules are directed towards the fulfilment of its objectives. The WTO was quite successful in liberalising trade. However, many developing countries claim that WTO rules and regulations are biased against their interests. They argue that tariff peaks, high tariffs and tariff escalation are still in place for their main export products and that agricultural subsidies distort world market prices and hinder comparative advantages from working. WTO’s objectives of better living standards, full employment and sustainable development have not been addressed sufficiently and comprehensively, although poorer developing countries are assisted in benefiting more from increased export opportunities by the Aft initiative. With regard to the enforcement of rules, WTO’s Dispute Settlement Mechanism has proven to be quite a credible instrument.

(ii) **Accountability:** Governments and administrations are accountable to their constituencies, legislative bodies and the public. International organisations are accountable to their Members and the public. The WTO is, to a greater extent than the World Bank or the International Monetary Fund, a strongly member-driven organisation and limited in following its own agenda. This makes it difficult to hold it accountable for the rules and regulations that it administers. Governments and their negotiating teams in Geneva, however, can be held accountable for the commitments made at the WTO concerning their consistency with the respective country’s public interest. Given that this chain of accountability is quite long, the question of how the underlying national trade policy is formulated and whether all relevant actors are meaningfully involved becomes more important (*see WTO’s Trade Policy Review Mechanism*).

(iii) **Transparency:** Transparency requires openness and communication and is a precondition for holding governments or institutions accountable for their behaviour. The WTO has improved transparency of its procedures and decisions quite substantially during the last few years. Examples are the prompt availability of documents on the website, the opening up of some dispute settlement cases to civil society, regular briefings for civil society and the media in Geneva, as well as regional outreach seminars in developing countries. Yet, efforts could be scaled up both at multilateral and national levels to increase transparency in trade policy, in general, and trade negotiations, in particular.

(iv) **Legitimacy:** An organisation can be considered legitimate if all Members subject to its rules approve it. Political science proposes the useful differentiation between input and output legitimacy. Input legitimacy refers to the processes, structures and institutional frameworks that determine decision-making. Output legitimacy refers to the effectiveness of rules and regulations to achieve the organisation's objectives. Input legitimacy in trade policy should be further increased by involving more stakeholders in trade policy-making both at the WTO and at the national level. Multilateral trade negotiations, however, will always be confronted with a trade-off between efficiency and inclusiveness. In terms of output legitimacy, the GATT/WTO was successful in promoting the expansion of trade in goods and services. With regard to the objectives of better living standards and sustainable development, though, experiences in countries differ substantially. While this is certainly the result of a complex interplay of various factors, the WTO and its Members should take better into account the impacts of trade on sustainable development and on the achievement of MDGs 1 and 8.

(v) **Relevance:** The WTO is the unchallenged organisation to provide the ground rules for international trade. Yet, the increasing number of Preferential Trade Agreements (PTAs) endangers WTO's relevance. The EU, for instance, reportedly applies its Most-Favoured-Nation (MFN) tariff to only nine WTO Members (WT/TPR/S/214). This illustrates that trade flows under PTAs can be large, although overall estimates vary widely. Other trade scholars argue that this would not undermine WTO's relevance, given that regulations in PTAs go beyond those Members' WTO commitments, which (in the form of bound tariffs) remain the legal basis for all other WTO Members. Moreover, the WTO fulfils other functions, such as the settlement of disputes and the surveillance of trade policies. However, WTO's long-term relevance as international trade regulator might also be at risk if the organisation does not find a way to tackle effectively trade-related aspects in other areas that will gain importance, such as investment and competition policy, social standards or climate change.

## Two Neglected WTO Reform Areas

The dominance of the Doha Round negotiations caused a backlog in reforms of WTO's regular functions and a reluctance among the membership to address new topics. Given that the TPRM and the WTO accession process had not taken centre stage until recently, they will be discussed in the following subsections. By improving both mechanisms, the WTO could become more conducive to sustainable development and, thereby, counter the criticism identified above.

### *WTO's Trade Policy Review Mechanism*

The TPRM constitutes one of WTO's main functions and has proven a valuable instrument to increase transparency in and enable a discussion on WTO Members' trade policies and regulations. While all Members are reviewed periodically, the frequency depends on the country's share in world trade. Two reports provide the basis for a Trade Policy Review (TPR): the Secretariat Report conducted by WTO's Trade Policy Review Division; and the Government Report, which is a policy statement by the country under review. All WTO Members discuss both reports as well as other elements of the respective country's trade policy and practices. The review is predominantly Geneva-centred and government-dominated. Civil society is rarely consulted during the preparation of the reports; it is also not compiling its own reports<sup>4</sup>. It is (so far) not even allowed to attend the discussions at the WTO.

The following three suggestions could be made to improve the TPRM:

First, a chapter on sustainable development should be included in all TPRs. This chapter could cover not only the impacts of trade on sustainable development, including employment and the environment, but also other "non-trade" issues, such as the role of exchange rates. Some of these topics were already touched upon during the discussions of past TPRs, but not yet included systematically in the official reports. In this respect, the expertise of other international organisations should be taken into account, which could enhance global policy coherence.

Second, the TPRM should be opened up for civil society in various forms. Civil society should be consulted in the preparatory stage of the reports, be included in WTO's technical assistance projects or even be provided the opportunity to submit a separate report for the respective TPR session. Civil society should be allowed to attend the discussions of the TPRs in Geneva as observers, as it is already applied in some dispute settlement cases, or even as discussants.

Third, national governments should be encouraged to organise consultations on national trade policy with relevant stakeholders, such as business, parliamentarians and civil society. This would increase public understanding of trade, trade policy and trade agreements and their implications for other policy areas. Moreover, it would increase the legitimacy of the trade policy formulation process and facilitate the efforts of mainstreaming trade into national development strategies. Actually, all WTO Members already committed themselves to increasing domestic transparency of their decision-making in trade policy matters, though on a voluntary basis (Paragraph B of Annex 3, Marrakesh Agreement Establishing the WTO).

### ***WTO Accession Process***

The WTO has a universal vocation, but it did not achieve world coverage yet. With currently 153 Members, however, it is no longer an exclusive club either as was the GATT in the beginning. To join the WTO, the applicant country needs to undergo a lengthy process, which has been criticised for being power-dominated, burdensome and unfair. Nevertheless, 25 countries have joined the WTO since 1995 and another 29 countries are formally in the process; 12 of them are Least Developed Countries (LDCs).

A closer look at the 25 recently acceded Members reveals that many of their concessions and commitments went beyond those of Members at similar levels of development. Some acceding countries were even required to join Plurilateral Trade Agreements and/or sectoral initiatives, which are usually voluntary and exceed common WTO commitments (“WTO Plus”). These obligations reduce a country’s policy space and constrain the options for development strategies. In extreme cases, this could endanger the objectives of raising standards of living, ensuring full employment and sustainable development. On the other hand, some economists argue that the reduction of badly used policy space has also a value.

The following three suggestions could be made to improve the WTO accession process:

First, the respective level of and prospects for development of applicant countries should be taken into account in the negotiations. No commitments should be demanded that go beyond those of Members at similar levels of development, in particular no “WTO Plus” commitments. The accession process should be streamlined and be guided by clear rules. The accession of LDCs should be especially facilitated and accelerated, as agreed upon in the specific guidelines that were approved by the General Council in 2002 (WT/COMTD/LDC/12). This requires a fundamental change in attitude of WTO Members and a less power-dominated and depoliticised process.

Second, acceding countries should be provided with the required technical assistance and capacity building. The WTO Secretariat already offers support by explaining the rules and regulations that need to be adopted and by hinting at essential changes in the national legal framework. Equally important is the assistance of other international organisations and bilateral agencies in exploring the available policy space and designing adequate adjustment measures.

Third, a broad discussion on the impacts of WTO membership should take place in acceding countries: before the accession to understand the rules and regulations; during the accession negotiations to influence the commitments and concessions; and after the accession to make best use out of the membership. All relevant stakeholders should be consulted, including business,

parliamentarians, civil society, trade unions and academics to gain a comprehensive view and to maximise benefits and minimise costs.

A review of the accession process was part of the work programme of the Seventh WTO Ministerial Conference and the membership expressed the willingness to further facilitate and accelerate the process<sup>5</sup>. Actually, it should be in the self-interest of the WTO and its Members to guarantee a more development-friendly accession process, given that the credibility of the organisation and legitimacy of the process are at stake.

### **Conclusion and Outlook**

In 2006, Pascal Lamy stated that an organisation which is unable to give itself new rules in more than a decade was not up to date. Although he referred to the urgency of concluding the Doha Round, this remark is equally true for WTO’s regular functions. International organisations need to continuously “update” their institutional structures and procedures to react effectively to the quickly rising challenges in a globalised world. In 2009, Lamy argued more cautiously in the speech outlining his vision for the next four years that “no major surgery” and “no major overhaul of the system” was required, but rather the implementation of a “long to-do list to strengthen the global trading system<sup>6</sup>”.

The WTO constitutes one of the most sophisticated international organisations with regard to (trade) policy-making, monitoring and enforcement. Nevertheless, a reform of international trade rules and WTO’s structures and procedures is indispensable for making the organisation more supportive of the achievement of all declared objectives. The paper showed that there is a need to enhance WTO’s credibility, accountability, transparency, legitimacy and relevance. In this respect, the TPRM and WTO accession process could play an important role, if they are reformed, trigger a broad debate on the linkages between trade and sustainable development and increase the participation of relevant stakeholders in trade policy formulation. Significant impacts could already be brought about with comparably small procedural adjustments, which might be pursued without lengthy negotiations and simultaneously with the Doha Round. Such improvements could finally ease trade negotiations as well, given that informed interest groups would better understand the complex balance between potential costs and benefits of international trade.

Thus, the WTO and its Members will soon need to take a fundamental decision: whether it is still worthwhile to put all energy into the Doha Round negotiations, or whether one should rather start improving the working of WTO’s regular functions at the same time. Concerning the latter, Lamy indicated in his “vision speech” that efforts could be scaled-up in the areas of implementation of agreements,



coherence and outreach. Such proposals should be put into practice and complemented by other suggestions, as offered in the paper. This would send the positive signal that the WTO can carry out incremental institutional reforms, despite the deadlock in the Doha Round. In the long term, the WTO will also need to prove that it is flexible enough to address trade-related aspects of new issues, such as climate change and energy, as well as controversial ones, such as social and environmental standards.

As influential part of the global governance system, the WTO has the obligation to contribute to the achievement of the overarching objectives of sustainable development and the MDGs. Therefore, the future of the WTO will not only depend on whether the organisation will be able to guarantee an open, rules-based and predictable multilateral trading system but also on whether all Members, in particular developing and LDCs, will benefit sufficiently from the system and will be able to translate trade and economic growth into raising standards of living, full employment and sustainable development.

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## Endnotes

1. Lamy, Pascal (2006), "Humanising Globalization", Speech in Santiago de Chile on January 30, 2006, at: [http://www.wto.org/english/news\\_e/sppl\\_e/sppl16\\_e.htm](http://www.wto.org/english/news_e/sppl_e/sppl16_e.htm) (consulted on February 02, 2010)
2. For some valuable proposals on how development could be mainstreamed in the WTO, see: Ismail, Faizel (2007): *Mainstreaming Development in the WTO: Developing Countries in the Doha Round*, CUTS International / Friedrich-Ebert-Stiftung
3. Panitchpakdi, Supachai (2007), Foreword in Ismail, Faizel (2007): *Mainstreaming Development in the WTO: Developing Countries in the Doha Round*, CUTS International/Friedrich-Ebert-Stiftung
4. Only the International Trade Union Confederation (ITUC) has been preparing parallel reports on the countries under review with regard to the implementation of core labour standards. For a list of ITUC country reports, see: <http://www.ituc-csi.org/spip.php?rubrique161> (consulted on February 02, 2010).
5. See "Chairman's Summary of the Seventh Ministerial Conference" (December 02, 2009), "Roundtable Statement on the Least Developed Countries' Accessions" (WT/MIN(09)/1, 5 October 2009) and "WTO Accessions: 2009 Annual Report by the Director-General (WT/ACC/13, 22 January 2010)
6. Lamy, Pascal (2009): "Statement at the General Council", April 29, 2009, at: [http://www.wto.org/english/news\\_e/news09\\_e/tnc\\_chair\\_report\\_29apr09\\_e.htm](http://www.wto.org/english/news_e/news09_e/tnc_chair_report_29apr09_e.htm) (consulted on February 02, 2010)

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