The politics of participation: Decision-making processes and developing countries in the world trade organization

Amrita Narlikar

To cite this article: Amrita Narlikar (2002) The politics of participation: Decision-making processes and developing countries in the world trade organization, The Round Table, 91:364, 171-185, DOI: 10.1080/00358530220134851

To link to this article: https://doi.org/10.1080/00358530220134851

Published online: 25 Aug 2010.

Submit your article to this journal

Article views: 945

Citing articles: 3 View citing articles
Particularly since the Seattle Ministerial and in the run-up to Doha, unprecedented attention has been devoted to the processes of operation of the WTO. Debates have raged over the subjects of internal and external transparency of WTO processes, the accountability and legitimacy of the institution, and possibilities of institutional reform. This paper addresses one key question that underlies many of the debates and provides the first and crucial hinge on which all other issues of institutional democracy, accountability, legitimacy, and the very functioning of the WTO depend. It asks to what extent have the decision-making processes of the WTO affected (facilitated, impeded, or been neutral to) the participation of the majority of its members, namely developing countries? It also analyses and assesses some of the proposals for institutional reform. Many of these proposals may deal with intricate details of decision making but they have far-reaching implications on the character of the WTO and global economic governance. Given the dangers that some of these implications entail, the paper puts forth the case for cautious reform rather than radical restructuring of the WTO and suggests ways in which other international bodies could facilitate the more effective participation of developing countries.

Key words: Accountability; decision making; globalization; transparency; secrecy.

Dr Narlikar is a post-doctoral fellow at St John’s College, Oxford. This is a slightly revised version of her 2001 winning essay for the Harry Hodson memorial prize. The author is grateful to many national delegations at the WTO as well as to WTO staff for their assistance and information. This article draws on a bigger study that the author had conducted in 2001 for the South Centre, entitled ‘WTO decision-making and developing countries’, and a special note of thanks is due to the staff of the South Centre for providing useful references and comments on the original paper. Further thanks go to Rudolf Adlung, Andrew Hurrell, Aaditya Mattoo, S. Narayanan and Ngaire Woods for their help and encouragement in many ways. The author is solely responsible for any errors or misjudgements.

Correspondence address: St John’s College, Oxford OX1 3JP, UK.
IT HAS BEEN the contention of the Neo-Realist brand of theorizing in International Relations that process is merely the handmaiden of structural power. Whether one agrees with this or not, the study of process in international institutions is of fundamental importance for two reasons. First, process, in itself, in the form of rules and procedures (formal or informal), is a key determinant of the substance of power politics. The bargaining counters that countries bring to the negotiating table in international institutions are decided crucially by their voting power, frequency and venue of the meetings, levels of interaction, scope of the agenda mandated to the institution, nature of coalitions and so forth. Second, if the process of functioning is transparent and accountable, the legitimacy of the organization increases substantially. In the absence of such legitimacy, Prague, Seattle and Genoa are the obvious consequences. Decision-making processes are the most important of these methods of functioning against which the legitimacy of the institution may be rated because they show how the organization treats its own members and thereby fulfils the first and most minimal level of accountability. In the aftermath of Seattle, issues of institutional reform acquired unprecedented importance, both within the WTO itself as well as outside it. Most of those issues persist today. Even the Doha Ministerial Declaration accorded attention to some decision-making issues. For instance, paragraphs 20, 23, 26 and 27 state that any negotiations in trade and investment, trade and competition policy, transparency in government procurement and trade facilitation will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken ‘by explicit consensus’. The insertion of this clause was at the instance of developing countries, which needed to ensure that the silence of developing countries, often at least partly due to inaccessible decision-making processes, is not misinterpreted as consent. Issues of decision-making and institutional reform have acquired even greater importance with launch of the new round: the expanding agenda of the WTO will mean that the marginalization of developing countries from rule-making in the new areas will prove even more expensive than before. These concerns are of direct relevance to the Commonwealth, where all but eight of its members are also members of the WTO (five of which have observer status) and the majority of its members are developing countries.

This study proceeds in four sections. The first section presents an analysis of the rules and procedures of decision-making in the WTO. The second section examines the problems with these processes, particularly as they affect developing countries. The third section analyses various proposals for institutional reform. The workability of these proposals is assessed and, where necessary, alternatives are also advanced. The concluding section examines the deep and far-reaching implications of some of these proposals on the very nature of the WTO and global economic governance.

Decision-making processes in the WTO: description and analysis

It is possible to trace four main tenets that underlie decision-making processes of the WTO. First, the WTO is a one-member-one-vote organization. As such, it differs considerably from the international financial institutions (IFIs) ie the International Monetary Fund (IMF) and the World Bank, where all decisions
are based on weighted voting. For instance, in the IMF, the voting power of member countries is determined by the size of their respective quotas, where quotas are a function of their weight in the international economic system. In contrast, Article IX:1 of the Agreement establishing the WTO states that each member has one vote, thereby allowing equal status to all members irrespective of trade shares or general economic size. Meetings of all the formal structures of the WTO are open to the entire membership, with the sole exception of the Textiles Monitoring Body.

With respect to procedures of counting of votes, Article IX:1 states that decisions will be taken by a majority of votes cast, unless otherwise provided for in the agreement or the relevant Multilateral Trade Agreements. One would expect that this too would work to the advantage of developing countries when they comprise about 100 of the 144 members. Compare the problems of developing countries in influencing decision-making in the IMF where many decisions require 85 per cent majority, giving the USA effective veto power due to its voting share of 17.56 per cent (Gregorio et al, 1999), and the WTO emerges as a terrain much more favourable to developing countries. Situations where the rule of simple majority is not used provide the exception in the WTO and are specified in Articles IX and X of the Agreement establishing the WTO or in the relevant multilateral trade agreement.

While the principle of one-member-one-vote and possible representation by all members—strong or weak—in all levels of the organization suggest a high degree of egalitarianism that would work in the interest of developing countries, developing countries themselves show little evidence of having utilized the power of large numbers. This can be partly explained through the second tenet of General Agreement on Tariffs and Trade (GATT)/WTO decision-making, namely that of consensus. The origins of the consensus method of decision-making can be traced to the GATT. The de facto norm of consensus-based decision-making, rather than majority voting, was institutionalized in Article IX:1 of the WTO which states, ‘The WTO shall continue the practice of decision-making by consensus followed under GATT 1947’. Consensus is arrived at ‘if no Member, present at the meeting when the decision is formally taken, formally objects to the proposed decision’. The condition that only the opinion of those present at the meeting will count differs from the requirement of voting, where majority is required relative to all the members of the WTO (Hoekman and Kostecki, 2001).

The third tenet that underlies WTO decision-making is the member-driven nature of the organization. This can be traced to the evolution of the GATT, which was not an international organization (IO) at all but a contract. The Secretariat of the WTO, while considerably bigger than that of the GATT (at the time of writing this article, official staff positions numbered to 552), is still small compared with the over-2500 strong IMF and nearly 6000 staff-members of the World Bank. It has no decision-making powers. In the Fund and the Bank, the staff of the organizations work directly with the governments in preparing, monitoring and enforcing conditionalities, with the approval of the Executive Boards, which is seldom withheld (Woods and Narlikar, 2001). In contrast, in the WTO, the members themselves take the decisions and enforce them through the DSB, if need be, leaving the Secretariat to provide technical
and administrative support. Finally, the equal representation that it allows to all its members and minimal powers to the Secretariat has led the WTO to evolve a fourth tenet of decision-making, namely a reliance on an elaborate network of informal processes that can beat consensus into shape. The rôle of these informal processes is recognized even on the WTO website. Some informal consultations involve the entire membership of the WTO, e.g., meetings of the Heads of Delegations (HODs). Smaller group meetings are also a commonly used device to reach consensus. For instance, Green Room meetings are called on the initiative of the Director General and usually include the Quad (USA, European Union, Canada and Japan) as well as some developing countries such as India, Brazil, Jamaica and, more recently, Bangladesh. Up to 40 delegates can sometimes participate in Green Room meetings, though the average number is about 20. Informal consultations are also used at the levels of the councils, committees and working parties, again which work partly by invitation and partly by self-selec-

All the features of decision-making just described are GATT-derived. Interestingly, however, in spite of the close similarity that WTO decision-making procedures and structures bear with its predecessor, the enthusiastic and fervent participation of developing countries in the WTO presents a far cry from their studied rejection of the GATT as a ‘Rich Man’s Club’. This is because while the original problems with decision-making persist, their significance and urgency have increased in an unprecedented way. In contrast to the GATT, in the WTO non-tariff measures (NTMs) are no longer addressed in terms of codes but the Single Undertaking and they cover a wider range of measures. Hence, developing countries find themselves members of an organization with procedures that were very similar to the GATT’s, but whose mandate goes far deeper than its predecessor’s. Unlike the IMF and the World Bank which lose their enforcement powers on a country once its debts are repaid, the WTO’s members must adhere to its international trade rules in perpetuity. And finally, the WTO can legitimize cross-sectoral retaliation in a much more effective way than the GATT due to a strengthened dispute-settlement mechanism. The only hope that developing countries have in working this elaborate and powerful system of rules is through active participation in the rule-making and rule-enforcement process within the WTO. The increased vigilance and participation of developing countries in the WTO, however, does not translate into effective participation, as illustrated by the analysis below.

Problems with WTO decision-making processes: viewpoint of developing countries

Consensus-based decision-making and member-driven character

Consensus-based decision-making not only deprives developing countries from making full use of the equal status that they share with their more developed counterparts as a result of the Agreement; in fact, it may be found to actively work to the detriment of developing countries. First, consensus decision-
making, as opposed to unanimity, means simply that no member present at the meeting formally objects to the decision. However, the key assumption here is presence in the meeting, and this study finds that 24 countries have no permanent presence in Geneva. Fifteen of the 24 are countries from the Commonwealth. These countries cannot object to the so-called consensus that various bodies of the WTO arrive at in their everyday workings. Even among the countries that enjoy diplomatic representation in Geneva, the size of their delegations is small (e.g., average size of developed country delegation is 7.38 vs 3.51 for developing countries) and they are unable to attend many of the overlapping meetings.

The second problem with consensus decision-making is that it is conducted through open discussion. Many developing countries point out that they often fear the consequences of expressing their objections publicly, and hence choose the alternative option of remaining silent. As the absence of objection is seen as consensus, developing countries end up giving in to decisions that they actually have problems with.

Third, the goal of consensus has sometimes been used by some developed countries as an excuse to hold small group meetings and exclude developing countries. To some LDCs consensus means little more than steamrolling of smaller powers by the dominant interests at the WTO.

At least some of the problems just described could be mitigated if members received adequate assistance from the WTO Secretariat to partly compensate their minimal presence with a knowledgeable presence. But the member-driven nature of the WTO places the onus of preparation for effective participation on the members themselves.

The member-driven character of the WTO and the minimal rôle of the Secretariat result in the translation of power hierarchies outside into the negotiating politics of the WTO, where the most powerful members (e.g., the Quad) are also the ones best-equipped to negotiate deals to their advantage. Power asymmetries have become even more pertinent today with the expansion of the WTO agenda into increasingly technical matters. Usually, it is only the developed countries that are able to fly technical experts into Geneva for the given negotiation. Developing countries, even if present at the meetings, are reduced to watching from the sidelines. Given the sheer multitude of meetings and the inability of developing countries to even attend them, let alone participate effectively, many developing countries feel that support from the WTO Secretariat is critical.

**Informal processes in WTO decision-making**

In spite of the flexibility that they allow, the first and most obvious problem with informal consultations is that they can lack transparency. Informal meetings were often by invitation only or through a process of self-selection by a small clique within the WTO. The most infamous in this genre were the Green Room meetings, where the Secretariat often treated the list of the invitees as confidential in order to avoid a flood of requests for participation from the excluded (Rege, 2000).

In the aftermath of the Seattle Ministerial, some attempts have been made
towards addressing the problem of internal transparency. The schedules of informal meetings and the list of invitees are now announced. Members who think that they have a strong interest in the discussion can also participate. It is emphasized that the meetings are directed purely towards consensus-building and have no decision-making powers. Finally, minutes of at least some informal meetings are circulated among the whole membership. It is almost amusing to note that the bad connotations of ‘Green Room’ diplomacy have led to the replacement of the term with ‘small group meetings’. All these are no small corrections, in themselves and especially in the light of the deeply entrenched traditions of the Green Room. However, three problems remain.

First, many developing countries have not even reached the point of interest identification to use the process of self-selection and claim the right to attendance. Second, while the tentative schedule for formal meetings for the year is put up on the WTO’s bulletin board, informal meetings are still called at much shorter notice. Adequate time is hence not available for planning, preparation and resource allocation. Third, even if the small group meetings are used only for consensus-building rather than decision-making, many excluded members find it difficult to intervene in the final stages of the discussion. The key point here is that the attempt to formalize some of the informal processes through the publication of minutes of informal meetings, while laudable, simply is not enough. An understanding of the technical details and political compromises is necessary to enable effective participation in the final decision-making process. Unfortunately, minutes of informal meetings do not provide information on this. Some countries further allege that the minutes are biased and further distort information provision.

The second problem with the importance of informal processes in WTO decision-making is that it places substantial reliance on the rôle and discretion of the chairperson as the broker, mediator and facilitator of the negotiations. The chairperson enjoys considerable leeway in setting the perimeters of the agenda and in deciding the frequency and invitations to the informal meetings. To the credit of the GATT and the WTO, a concerted attempt has been made to maintain a careful balance between developed and developing countries in the distribution of the top leadership positions (Michalopoulos, 1999). But ‘representatives of Members in financial arrears for over one full year cannot be considered for appointment’.

This automatically disqualifies some of the LDCs. Similarly, a presence in Geneva is almost a necessary condition for appointment, although ‘Non-residents may be appointed in exceptional circumstances where the necessary expertise can only be found in capitals’. The chairperson can provide the fulcrum of the negotiation, and many LDCs find themselves excluded from this key position.

Finally, in the absence of strict rules about the agenda, membership and frequency of the informal meetings, the informal protocols of interaction and culture of the institution assume overwhelming importance. In this context, the ‘almost English Club atmosphere ... the codified language’ (Ricupero, 1998, p 15) and language barriers have made the Green Room consultative process daunting and inaccessible to some developing countries, even if they are present.
Rôle of the Secretariat

The composition of the Secretariat has attracted the criticism of several developing countries, and the actual scope and debates about expansion of its powers are fraught with controversy. Of the total 552 staff positions available, only 94 are occupied by persons from developing countries. It could also be argued that the problem is not so much unequal representation of nationalities as much as an absence of dissident viewpoints. Many developing countries allege ideological bias by the staff. A classic example that is cited is the active promotion of the new round by the Director General. Many developing countries assert that such open advocacy by the Secretariat of a position on which there is no consensus among the majority of the members themselves considerably undermines the status of the WTO Secretariat as a neutral broker. The substance of technical assistance by the Secretariat has also come under criticism. Most developing countries agree that they are given technical advice on the existing rules and their implementation, but never the sorely needed advice on interest identification, proactive rule formation or capacity-building at the national capital level.

Proposals for institutional reform: analysis, assessment and alternatives

The consensus principle

In spite of the problems with the consensus principle, most member states do not support its replacement with an alternative procedure involving voting. In contrast to voting, which presents a win-lose situation (e.g. attaining a majority might result in 49 per cent of stakeholders disagreeing with the outcome and feeling antagonized), consensus is reached by incorporating the inputs of the parties so that eventually they all agree to at least ‘live with’ a situation (Richman, 1999). Expectedly, developed countries have supported the consensus principle as it provides them with a guard against the bloc voting by developing countries that majority voting has yielded across institutions. The support of developing countries for the consensus principle derives from the recognition that the entire edifice of the WTO would be threatened if members were coerced into legally binding obligations imposed by a ‘tyranny of the majority’. Further, developing countries know from experience that their bloc opposition to a position supported by some developed countries could result in the bypassing of the WTO and resort to alternative institutions where developing countries exercise even less or no influence. Consensus allows a politically viable negotiating process of give-and-take to emerge, in a way that majority voting cannot.

While majority voting cannot replace the consensus principle, two alternatives are conceivable. First, several proposals have been advanced to deal with the problem of large numbers in the consensus-building process through the creation of an Executive Board, examined in the next sub-section. The second possibility would be to vote through special majorities, so that the tyranny of simple majority is avoided but decision-making is formalized through a voting
system that minimizes decision-making in corridors and green rooms that characterize the consensus-building process. The biggest problem with this method is that voting requires greater formality of rules. The entire structure and workings of the WTO rest on bargaining, consultation, negotiation and compromise—something that formal voting procedures render extremely difficult, if not impossible. In the long term, a possible combination of methods may be used, possibly by creating a hierarchy of issues such that matters involving actual concessions are decided upon by consensus while special majorities are used for administrative matters (Narlikar and Narlikar, work in progress).

*Member-driven character vs executive board*

Recent discussions on the time-consuming and inefficient nature of consensus-building, particularly when 144 members are involved, has led to proposals of reforming WTO structures along the lines of the IFIs and the Security Council. Canada has proposed a new committee with limited membership, comparable with the UN Security Council in regional representation and rotation of non-permanent members. The EU has proposed a body along the lines of the Consultative Group of Eighteen, cg-18. Japan has favoured the establishment of an Advisory Council. Mexico has suggested a transformation of the Green Room into a ‘Glass Room’, in which 25 per cent of the WTO’s members (34 at the time of the proposal) would participate. Fifteen members with the greatest shares in world trade would act as permanent members. The remaining 19 members would be chosen according to regional criteria, where the selection would be made by the countries of the relevant region. Schott and Watal propose a similar informal steering committee of 20 members based on absolute value of foreign trade and geographic representation ensuring representation with at least two members from each region. All these proposals stress that the limited membership committee would have only consensus-building and no decision-making powers (Krajewski, 2000; Schott and Watal, 2000; Werksman, 2000).8

Before examining the merits of these proposals, it is worth recalling that the WTO has already had one experience with a similar consultative body in the GATT through the cg-18. The group was established in 1975 on a temporary basis and made permanent in 1979. However, the consultations only ‘resulted in repetition of the points made and the issues raised in other GATT bodies; the forum was often used by developed country members to bring in new issues for rule making and to reiterate their well known positions’ (Rege, 2000). The group was suspended in 1989 and, given its poor record, was never revived.

Besides the above, there are four more reasons for regarding the establishment of even an advisory executive body with scepticism. First, the binding character and intrusive potential of WTO legislation mean that few countries would be willing to accept recommendations of a consensus of an advisory inter-state body. Second, interests of countries differ significantly across issue-areas that are covered by the WTO. It seems simplistic to expect that many countries would find their interests adequately represented according to regional groupings in each issue-area. Executive bodies, if they are to meet the partici-
patory requirements of all or most WTO members, would need to be re-constituted according to the councils and committees, and further with negotiations in each sub-sector as interests of countries are re-aligned. Third, even members that gain a place in such a board might not have the resources or the will to negotiate in all the different areas that a permanent body would demand. Finally, as one group of developing countries has noted, ‘Creation of an advisory board would formalise the exclusion of a large number of Members from process of consultations.’

Across regions and including LDC groupings, developing countries have emphasized that decision-making needs to be member-driven rather than board-led. But within this broad agreement, two sub-groups are notable. To the first set belong countries that already have access to the small group meetings, and hence suggest some additional measures of fine-tuning, such as open-ended meeting to immediately follow the small group meeting to report on the discussions in the small group. To the second set belong countries to which small group meetings are still not easy to access. They stress the need for some clearer criteria on which the small group meetings are constituted. In addition, one proposal from an NGO emphasizes that the mandate of the small group must be specified and clearly delimited (Krajewski, 2000). This would allow a more effective presence for the smaller delegations. Even if some of the smaller delegations are unable to follow up the discussions in the small group, they do not run the risk of endangering their interests in a variety of issue-areas. The system might also prove more efficient as it would be easier for countries to self-select on the basis of vital interest, if the risk of issue-linkages and cross-sectoral/cross-issue trade-offs is diminished.

All the proposals discussed hitherto suggest a tension between the requirements of flexibility versus certainty. One way of reconciling these tensions is found in Rege’s proposal (Rege, 2000). Rege proposes that at the beginning of each year, the Chairman, in cooperation with the Chairmen of the Councils of Goods, Services and TRIPS, and with the assistance of the Secretariat prepares a list of countries which would be invited to the Informal Consultative Group. The ICG would be invoked when smaller group consultations become necessary. The list would be announced and any country which considers it has vital interests could request participation. After an ICG meeting, other countries would be informed of any developments, through the circulation of reports or open-ended meetings to brief the delegations (or even simultaneously through video screening of the debate). This proposal may be extended further, keeping in view the fact that one ICG would probably not be sufficient once issue-specific negotiations at the committee and working party level are considered. Hence, in addition to the proposed ICG, similar consultative procedures could be drawn for different levels i.e ICGs could be constituted according to the issues under discussion and with sufficient advance notice to facilitate self-selection, preparation and coalition formation.

The proposal providing a specific and limited mandate for the small group presents one significant problem. Most GATT/WTO decisions have relied on trade-offs and cross-issue linkages that are informally agreed to in the Green Room/small group. It is doubtful if any negotiation would be politically feasible if deals across issue areas were not possible. One solution could be that small
THE POLITICS OF PARTICIPATION

group meetings with specified mandates keep tab of parallel negotiations on areas that are of special importance to participants. The plenary meeting could bring together all the relevant small groups. However, it is likely that several consensus-building plenaries would have to precede the final decision-making one. If the plenaries become too numerous, it would be necessary to re-consider the original small group meeting with an expanded mandate.

Burden of increased transparency: overloaded agenda and capacity-building

Most of the proposals by developing countries to enhance their own participation emphasize greater transparency of proposals rather than institutionalization of existing hierarchies through executive boards or changing the member-driven character of the WTO. However, the Like-Minded-Group (LMG) has noted that increased transparency, particularly through means such as open-ended meetings after the small group meetings, would increase the number of meetings that the already over-taxed delegations will have to attend. Two sets of proposals become relevant to provide the antidote to this effect. First, as some developing countries have pointed out, a less ambitious work programme would do a great deal towards helping develop a fairer decision-making system. In part, this refers simply to procedural rather than substantive issues, e.g. scheduling of meetings to ensure minimal overlaps, possibly even increasing the time gap between ministerials. But beyond a point, the burden of meetings cannot be significantly reduced without a reduction in the substance of issues that are addressed in the WTO. There are political limitations on the extent to which the substance of rule-making can be feasibly decelerated, especially as bargaining in the WTO involves interests of developed countries that have demanded legislation in newer areas. Hence, the second antidote, namely that of capacity-building, becomes crucial to deal with the overload of meetings and the possible increase if some of the proposals for greater transparency are met.

While capacity-building is at least as much a domestic issue as an international, institutional one, it has attracted considerable attention in the light of technical assistance programmes of the WTO. Most developing countries have demanded greater technical assistance from the Secretariat. Somewhat paradoxically, they have also asserted that the technical assistance that they receive from the Secretariat is, at best superficial and irrelevant, while often it is actively biased. The debate on the form and content of technical assistance reflects a deeper question, namely, what kinds of powers can and should the Secretariat enjoy? Greater technical assistance from the Secretariat assumes expanded powers to it, but if the technical advice of the Secretariat is already seen to be politically loaded and biased, should its powers of intrusion into domestic capacity building be expanded?

If the powers of the Secretariat are indeed expanded, these would be akin to those already enjoyed by the Fund and the Bank to assist developing countries in capacity-building and participation from the grass roots. Given the member-driven nature of the WTO and its chief rôle as a negotiating forum, this would fundamentally alter the character of the WTO. A comparison with the IFIs offers us reason for even greater caution in expanding the rôle of the WTO’s Secretariat to deeper capacity-building issues. The expansion of the IFI’s into
THE POLITICS OF PARTICIPATION

second generation reforms has demonstrated that good governance condition-
alties privilege only certain kinds of governments and rule-based orders,
namely liberal ones, and exclude alternative ways of governance (eg the ‘Asian
way’ in the case of the East Asian crisis where restructuring included an assault
on the chaebol and prompted a multitude of ‘IMF suicides’). Whether the WTO
should follow a similar path of expanding the Secretariat’s advice-giving
powers is highly debatable.

Rather than expand the burdens and powers of the WTO, an obvious
alternative would be that developing countries turn to alternative forums for
technical assistance to meet the demands of an expanding agenda and
increasing transparency. Indeed, developing countries already have diverse
sources that they could tap into for capacity building. These include multilateral
institutions like the UNCTAD and the ITC, non-governmental organizations
(NGOs) involved in research work like the Third World Network and Oxfam,
and even bilateral assistance. Having a wider menu of advice to choose from
would allow developing countries to make an informed choice about the
negotiating positions that they eventually adopt in the WTO. In this context, the
Commonwealth’s Trade and Investment Access Facility (TIAF), launched in
1997, presents a landmark. The facility provided for a Commonwealth Adviser
in Geneva to assist developing countries in preparing for the negotiations. ‘The
Adviser produces a range of background papers to inform developing country
policy-makers of key issues emerging in the WTO and to present the pertinent
arguments based on factual analysis’. The work programme of the adviser is
determined in consultation with an Advisory Committee comprising seven
ambassadors from the Group of Commonwealth Developing Countries in
Geneva. The Commonwealth took its initiative even further in 2001, keeping in
view the requirements of non-resident delegations. Participants in the WTO’s
18th trade course stayed on in Geneva for another two weeks to attend
the Commonwealth Secretariat’s WTO Familiarization Programme. Partici-
pants from Fiji, Namibia, Papua New Guinea, Sierra Leone, and Solomon
Islands were the first beneficiaries of the scheme, which is tailor-made to meet
the concerns of Commonwealth members of the WTO that have no representa-
tion in Geneva. Given the sub-text of power politics that underlies many
technical assistance and capacity-building programmes of international
economic organizations, alternative initiatives such as that launched by the
Commonwealth Secretariat represent a significant step that deserves further
expansion. Undoubtedly, political undertones would colour the advice of any
organization, but it is likely that a diversity of sources and assistance that is
determined significantly by the demands and influence of developing countries
themselves would minimize some of these political biases. It is also possible
that research initiatives such as those taken up by the UNCTAD, the South
Centre, and the Commonwealth Secretariat could provide a sound basis for
building bargaining coalitions of developing countries. But in good measure,
the onus of making use of this research and transforming the information
provided into collective action would lie as much on developing countries
themselves as on the particular organization providing the technical assistance.
Conclusion

This paper has identified four tenets of WTO decision-making: one-member-one-vote, consensus decision-making, member-driven character and the importance of informal procedures in holding these features together. Each one of these features is fraught with problems for developing countries. In spite of the one-member-one-vote rule, consensus based decision-making means that developing countries are unable to make use of their numerically large majority. Reaching consensus within the very large membership of the WTO is a near impossible task, which means that consensus has always initially been built up in small group meetings. The secrecy associated with small group meetings often led to the exclusion of developing countries from the decision-making process. Further, some developing countries with minimal or no presence in Geneva found that they could not even fulfil the condition of physical presence, let alone a knowledgeable presence. Many of these problems have worsened with the expanding mandate of the WTO.

In the showdown at Seattle and its aftermath, at least some of these problems attracted so much criticism from the members themselves, from NGOs, academics and the media at large that they could no longer be swept under the carpet. As a result, the WTO, various chairmen and even the insiders of the Green Room began to place an unprecedented emphasis on improving the transparency of the small group meetings. These changes, still in the process of evolution, are not to be scoffed at. But the original problems of inadequate capacity of developing countries remain and are, in fact, magnified due to the greater demands that the requirements of increased transparency place on them. Similarly, if increases in transparency continue to move along current reform lines, some scholars and member-states argue that consensus based decision-making will become so cumbersome that the WTO machinery will grind to a halt. Various proposals have been advanced to combat these problems. Some suggest the creation of an Executive Board along the lines of the IFIs. Others argue that privileging efficiency over democracy would still not produce sustainable agreements and would only institutionalize existing hierarchies. Many developing countries have emphasized the rôle that the Secretariat can and should play in capacity-building, thereby ensuring that the WTO fulfils its function as an international institution that facilitates inter-state negotiation on relatively equal terms. Simultaneously, however, doubts have been raised on the record and ability of the WTO to act as a neutral broker in international politics. These questions are not easy to answer, and boil down to two very different views of international institutions and what is expected of them.

International institutions can be viewed in two perspectives. A first perspective is the minimalist one. Here, an international organization like the WTO is seen as little more than a forum, which provides an opportunity to all member-states to interact on a multilateral basis. As such, it reduces the transaction costs that derive from multiple bilateral deals and also minimizes bilateral arm-twisting by establishing a system of rules and norms of inter-state behaviour. The institution, by facilitating multilateral dealings and allowing the scope for coalition-building, mitigates some of the worst excesses of power politics. However, as an inter-state body, it cannot replace the existing international
hierarchies by more equitable structures. Once minimal measures for ensuring that all members can interact on a relatively equal basis are established, it is the responsibility of the members to avail themselves of these measures. The second view accords a much bigger rôle to institutions. Here, institutions ensure that provision of opportunity to interact on a multilateral basis means levelling the playing field. For instance, the provision of one-member-one-vote is not enough; rather, it is the responsibility of the institution to ensure that states are able to exercise that vote if the member-states find themselves ill-equipped to exercise it. It is up to the institution to do whatever it takes to achieve this (including intervention at the domestic levels by the Secretariat to ensure capacity-building). It is to this latter view that developing countries in effect appeal when they argue for increased technical assistance from the WTO, and increased funding and staffing of the WTO to ensure this. Of course, the second perspective is based on the assumption that the institution is capable of acting as a neutral broker and hence capable of taking on its expanded rôle in an unbiased way. Unfortunately, as this paper has argued, there is little in the record of the WTO (or the IFIs) to assure one of this neutrality. Hence the argument that once the condition of transparency and openness of decision-making procedures is fully met, reform of any kind has to be minimalist.

Recognition that there are some serious problems with even the relatively democratic decision-making processes of the WTO is the first step towards the goal of more effective participation by developing countries within the WTO. But this recognition comes with two attendant risks. First, there is a danger that preoccupation with procedural reform will deflect attention from issues of substance—a luxury that neither the Secretariat nor developing countries can afford. Procedural reform may assist developing countries in dealing with substance, but provides no substitute for attention to the latter. Second, there is a serious risk of over-correction. If the informal procedures that go into decision-making are replaced with formal rules and a powerful Secretariat, as per the second view of international institutions, the resulting certainty will be accompanied by an insurmountable cost. Deep structural reform (eg a powerful Executive Board and Secretariat) would imply deeper encroachments into areas of domestic jurisdiction by the WTO. At least so far, the experience from other organizations as well as limited technical assistance programmes of the WTO has shown that almost all intrusions have a strong power-political content. Fearful that reform will spin out of control in the direction of over-correction, developing countries have become reluctant to even discuss the issue of institutional reform. If, however, current indications are correct and the issue does indeed come up for discussion in Doha, developing countries cannot afford to dig their heads in the sand. Reform along lines advanced in this paper will at least ensure that developing countries do not land from the frying pan into the fire; it is also likely to improve the participation of developing countries in both the process and substance of decision-making.

Notes
THE POLITICS OF PARTICIPATION

2 http://www.wto.org/english/thewto_e/whatis_e/tif_e/org1_e.htm.
3 These figures are based on the WTO Directory (2000).
4 The consequences can range from retaliation in Geneva in some other negotiation, to bilateral pressures directed at capitals as well as delegations.
5 Interviews with delegates from several developing countries.
7 Ibid.
8 Also proposals by various delegations and summary proceedings of informal meetings of the General Council.
9 Pakistan on behalf of Cuba, Egypt, Uganda and Zimbabwe, General Council Informal Meeting 28 March 2000, Job (00)/2331, 14 April 2000.

References

THE POLITICS OF PARTICIPATION


WTO (2000) General Council Informal Meeting (28 March), Internal Transparency and the Effective Participation of all Members, Main Points raised by Delegations, JOB(00)/2331, 14 April.