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**Development-orientated Perspectives on Global Trade
Governance: A Summary of Proposals for Making Global
Trade Governance Work for Development**

Carolyn Deere Birkbeck
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Global Economic Governance Programme



Centre for International Studies | Department for Politics and International Relations

The Global Economic Governance Programme was established at University College, Oxford in 2003 to foster research and debate into how global markets and institutions can better serve the needs of people in developing countries. The three core objectives of the programme are:

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- to create and maintain a network of scholars and policy-makers working on these issues;
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**Development-oriented Perspectives on Global Trade Governance:
A Summary of Proposals for Making Global Trade Governance Work for Development**

Carolyn Deere Birkbeck

Demand for global trade governance that supports development is high. Developing countries have long called for a greater role in governing the global economy and its trading system. As the importance of developing countries in global trade rises and South-South trade among them grows (UNCTAD 2010), they have stepped up their calls for a stronger say in the decision-making processes and institutions that impact how global trade is conducted and the way its rules are made, implemented and enforced have intensified.

This book shows that the way global trade is governed can facilitate or hinder the prospects for reaching rules and arrangements that benefit developing countries. Yet, to date, the visibility of development perspectives in the scholarly debates on global trade governance has been weak. The unique contribution of this volume is its compilation of a broad geographical spectrum of development-oriented views and proposals, and its engagement of scholars and of practitioners from government, international organizations and stakeholder groups. The volume builds on a large body of literature and many years of policy discussion on global trade governance, the future of the global trading system, and how to make trade fairer for developing countries.¹

Together, the contributors to this book provide concrete guidance on what a development agenda for global trade governance might include. They both reinforce and supplement development-oriented proposals already on the table. For the purpose of this book, governance is broadly defined to include the suite of processes, principles, and norms as well as the institutional architecture through which rules and practices for managing global trade are made, implemented and enforced.

In this concluding chapter, I draw together the priorities and proposals set forth in this book and place them in the context of current policy debates and the scholarly literature.

The chapter begins with a review of the policy context for discussion of global trade governance and institutional reform of the WTO and the rise of debates on development and trade governance. It then outlines the scope of the broader literature on global trade governance and WTO reform, of which the development dimension is one part. It also reviews the main contours of debate on trade and development, noting that these debates have a considerable impact on the thrust of development agendas for trade governance reform.

The heart of the chapter draws together development-oriented proposals from across the book, showing where and how they build on or diverge from existing proposals. It highlights four thematic areas where clear development priorities and proposals for improved global trade governance exist.

The first theme places global trade governance in the context of global economic governance more broadly. It draws attention to the many components of trade governance, highlighting a range of relevant

¹ Recent works include, for instance, Akyuz (2009); Cottier and Elsig (2011); Deere Birkbeck and Monagle (2009); Deere Birkbeck and Meléndez-Ortiz (2009); Lee and Wilkinson (2007); Lehmann and Lehmann (2010); Petersmann (2005b); Steger (2009a); and Taniguchi et al. (2007).

multilateral, bilateral and regional arrangements, as well as the relevance to trade governance of the many international economic, social and environmental regimes that impact development.

The second theme addresses expectations about roles and responsibilities of developing countries in trade governance, the diversity of developing country priorities and strategies, their efforts to organize themselves collectively, and their relationships with national stakeholders at. The third theme identifies proposals for strengthening multilateralism in global trade and WTO reforms that would benefit developing countries. In light of the practical challenges of integrating development priorities into WTO negotiations and the subsequent implementation process,² proposals in this area relate to the goals and principles underpinning the WTO, the scope of the WTO agenda, its functions (such as dispute settlement, monitoring, and capacity building, among others) and the role of the Secretariat.

A fourth theme is devoted to proposals for improving the fairness of processes of trade negotiations at the bilateral, regional and multilateral level. The chapter concludes with the question of political strategy for making global trade governance work for development.

1. THE STATE OF DEBATE ON GLOBAL TRADE GOVERNANCE AND DEVELOPMENT

1.1. The Trade Governance Debate: The Policy Context

Over the past two decades, the call for developing countries to have a greater influence on global economic governance has steadily intensified. Debates on globalization have fuelled pressures for fairer arrangements to promote greater benefits for developing countries and protect them from globalization's pernicious aspects (ILO 2001; Rodrik 1997; Stiglitz 2003). Building on developing country efforts since the 1950s at the UN, the Bretton Woods Institutions and the General Agreement on Tariffs and Trade (GATT) to forge a more equitable international economic order (Cutajar 1985; Krasner 1985), this push regularly surfaces wherever the governing bodies of international organizations meet, whether at the United (UN 2009a), the UN Conferences on Trade and Development (UNCTAD), the Organisation for Economic Co-operation and Development (OECD), annual meetings of World Bank and International Monetary Fund, or WTO Ministerial Conferences (Das 2000; Woods 2010; OECD 2005, 2006; Woods 2010).

On the trade front, developing countries have long argued that global trade arrangements favour the needs of richer, developed countries that dominate decision-making. The complaints have not been completely ignored. In 2001, the WTO Ministerial Conference in Doha made 'development' a guiding objective of the round of trade negotiations it launched.³ And, in the UN Millennium Development Goals (MDGs), the international community hailed the importance of a rule-based, predictable, non discriminatory and open trading system to ensuring that 'globalization becomes a positive force for *all* the world's people' (emphasis added) (UN 2000, 2001). The MDGs' call for a 'partnership for development' highlighted the special trade needs of least developed countries. Further, the quadrennial meetings of United Nations Conference on Trade and Development (UNCTAD) have consistently taken up the challenges of developing country engagement in the international trade architecture.

² See, for instance, Alavi (2008); Allesandri (2010); Bhaumik (2006); Debory and Chakraborty (2007); Hohmann (2008); Khan and Chakraborty (2008); and Ismail (2007, 2009d).

³ This decision was taken to make fresh negotiations more palatable to unenthusiastic developing countries whose priority was to re-balance the unequal outcomes of the Uruguay Round (Finger 2007; Safardi and Laird 1996; TWN 2001). For analysis of the Uruguay Round, see Croome (1999) and on the earlier days of the GATT, see Curzon (1965). For the texts of the Uruguay Round's outcomes, see WTO (1999).

Yet, by 2005, the UN Millennium Taskforce on Trade concluded that the international trading system remained ‘stacked against developing countries’ (UN Millennium Project 2005). And in 2009, a UN Commission on Reforms of the International Monetary and Financial System (UN 2009b) highlighted the outstanding need for coherence between policies and international organizations relevant to trade and finance. In 2009, the Geneva Ministerial Conference of the World Trade Organization (WTO) illustrated the enduring need for more systematic attention to improving the multilateral trading system addresses development (Deere Birkbeck and Cherneva 2010; WTO 2009e).

The publication of this book coincides with a time of uncertainty in trade and trade policy-making. The 2008-9 global financial and economic crisis saw trade flows and finance collapse and protectionist pressures rise. As the G-20 Leaders’ Summits have unfolded as a new mechanism in global governance, albeit with limited legitimacy, commentators debate how the G20 Leaders should engage in the realm of global trade, and whether the rise of their political meetings undermines or complements the role of WTO.⁴ Fatigue and exasperation with the lethargy of the Doha Round negotiations - now the longest running round in the history of multilateral trade negotiations – has renewed concern about the WTO decision-making process and the search for Doha ‘Plan B’ has begun, particularly as regional and bilateral agreements proliferate (Baldwin 2009; Narlikar and Vickers 2009).⁵ As developing countries’ collective share of international trade flows grows, the shifting power balance in multilateral trade negotiations has prompted interest in the appropriate role of emerging powers and their responsibilities to the smallest and poorest developing countries, particularly those in Africa (Njinkeu 2009; Oyejide 2009). Meanwhile, debate on how the trade regime can address sustainable development objectives has intensified in light of the challenges of climate change (Cosbey 2009; Najam et. al. 2007). As countries begin to grapple with the question of a post-Doha agenda for the multilateral trading system, even the process for discerning that agenda remains unclear.⁶

To date, much of the debate on global trade governance has focused on the WTO, the leading multilateral institution for global trade. In the fifteen years since the WTO was established, the issue of institutional reform – whether it is needed, in what form, and through what kind of process - has been an ever-present issue for the organization and its Member States. Calls from Member States⁷ and scholars for institutional reform of the WTO have been most acute at specific junctures in its relatively short history – most notably following the Seattle, Cancun and Hong Kong WTO Ministerial Conferences.⁸ Civil society groups, business groups, and parliaments have also expressed a wide range of concerns about the WTO’s

⁴ While a more inclusive grouping than the G8, the scope of the G20’s ambition remains unclear. In the meantime, the uneven representation of developing countries and *ad hoc* approach to membership continues to undermine its legitimacy in the eyes of many commentators and countries not represented in the grouping. For views on the G20, particularly in relation to trade, see Deere Birkbeck and Meléndez-Ortiz (2009); Baldwin and Evenett (2009); Higgott (2009); UN (2009b); Woods (2010).

⁵ While such arrangements do little by way of rule-making or subsidy reform, countries continue to forge them both for market access benefits and for foreign policy motivations, in spite of the challenges they pose to the multilateral regime’s non-discriminatory norms. Notably, for instance, the U.S. estimates greater economic benefits from the market access negotiations in its pending bilateral deal with Korea, than from the entire Doha package. The bilateral arrangement does not, however, address trade rules.

⁶ GEG and ICTSD (2010); Khor (2002); Mattoo and Subramaniam (2009); Wilkinson (2009a).

⁷ See, for instance, WTO Doc T/GC/M91, General Council – Minutes of Meeting - 26 January 2005; WT/MIN (03)/ST/58, Ministerial Conference - Fifth Session Cancun, 10 - 14 September 2003 - Honduras - Statement by H.E. Mr Norman García, Secretary of State, Department of Industry and Commerce; WT/GC/W/477, General Council - Preparatory Process in Geneva and Negotiating Process at Ministerial Conferences - Communication from Australia; Canada; Hong Kong, China, New Zealand; Singapore; Switzerland; WT/MIN(01)/ST/110, Ministerial Conference - Fourth Session - Doha, 9 - 13 November 2001 - Republic of the Fiji Islands - Statement by H.E. Mr. Isikeli Maitoga, Ambassador, Permanent Representative to the WTO; WT/GC/M/57, General Council - Minutes of Meeting - 17 and 19 July 2000.

⁸ See, for instance, Bhagwati (2001); Baldwin (2006); Blackhurst (2001); Cho (2004); EC Directorate-General for Trade (2003); ETUC (2006); Moore (2003); Schott (2003).

functioning, transparency and effectiveness, as well as on the representation of developing country interests.⁹

In 2004, WTO Director-General, Dr Supachai Panitchpakdi commissioned a Consultative Board of experts, led by Peter Sutherland (a former head of the GATT), to present proposals for institutional reform (Consultative Board 2004).¹⁰ The Sutherland Report was followed in 2007, by an independent commission supported by Warwick University on ‘the Future of the WTO’ (Warwick Commission 2007).¹¹ Both initiatives affirmed the political imperative of finding ways to assuage the concerns of developing countries. The launch of the ‘Aid for Trade’ initiative in 2005 as a new component of global trade governance was driven by the political need to address many developing countries’ difficulties in deriving benefits from their participation in the international trade system.¹² The political salience of development concerns was also in clear view in 2009 when WTO Director-General Pascal Lamy called for transforming the WTO into an institution that is ‘more development-friendly [and] more user-friendly, so that its benefits are felt by all, large and small, rich and poor, strong and weak’ (WTO 2009a).

Neither the global trading system, nor the debate about its reform, is static. As the intensity of public debate on globalization waxes and wanes, and the salience of specific trade challenges shifts and evolves, so too has the debate on global trade governance.¹³ Further, the record to date shows that some progress is possible.

At the WTO, for instance, a number of administrative and informal changes were made to how the organization works over its first 15 years (See Box 1 later in this Chapter) (P. Gallagher 2005; WTO 2007).¹⁴ There have also been several formal decisions taken by the WTO’s General Council, trade Ministers or the WTO Secretariat. Views differ on whether such changes have been sufficient, as do perspectives on the feasibility, desirability and necessity of further reform. Despite the recurrent stalling of the Doha Round negotiations and concern about threats to multilateralism in trade, the WTO’s current Director-General maintains, for instance, that the organization is essentially intact and working. While he once lambasted the WTO as a ‘medieval institution’, Lamy now insists that compared to other international economic organizations, the WTO faces no fundamental challenges in the realm of governance (Lamy 2009). Views also diverge on whether such reform should be incremental or if a more radical, structural overhaul is in order, and whether such processes should be essentially political or technical undertakings.¹⁵

Meanwhile, proposals for reform continue to be generated by governments, scholars, civil society and industry groups. Indeed, interest in more effective governance spurred governments to resume in 2009 the

⁹ See, for instance, CAFOD et. al. (2002); Consumers International (2001); Kaukab et. al. (2004); Khor (2006); Ismail (2008, 2009d); UK Parliament (2003); Wilkinson (2006b).

¹⁰ This initiative was preceded by earlier efforts within the GATT system, such as the Leutwiler Report (Leutwiler et. al. 1985). The Sutherland Report spurred two journal special issues where scholars debated the analysis and recommendations of the report. See for instance Pauwelyn (2005), Wolfe (2005). Two former WTO Directors-General have also published articles or books with their reflections (e.g., Moore 2003, 2004 and Sutherland 2005).

¹¹ The Warwick Commission proposed a number of institutional changes at the WTO, including increasing the size of the WTO Secretariat, expanding the powers of the Director-General, and revising the process for reaching new trade deals.

¹² See Njinku and Cameron (2008); Page (2004); Prowse (2002, 2005); and WTO (2006a, 2010a).

¹³ Compare, for instance, the table of contents of the volume edited by Krueger in 1998 to those that of Steger in 2009a.

¹⁴ Also see Deere Birkbeck and Monagle (2009).

¹⁵ For varying perspectives on this issue, see Bello (2002, 2002a); Ostry (2002); TWN (2001), TWN et al (2003); and Wolfe (2008).

practice of holding biennial Ministerial Conferences as called for in the WTO's mandate and to consider ways to strengthen the multilateral trading system (Deere Birkbeck 2009b; WTO 2001, 2009c, d).¹⁶

1.2. Development in the Trade Governance Debate

Development-oriented proposals on trade governance can be found across the international policy arena. At the UN and the WTO, developing countries have emphasized the shortcomings of the structure and processes of trade governance, calling for greater participation and representation in decision-making (G-77 1999; G-77 and China 2003; African Group 2000).¹⁷

Informing the international policy debate is a growing body of research on trade governance from developing country scholars, research centres, think tanks and universities¹⁸, as well as from developing country negotiators and senior international officials.¹⁹ Governance concerns also a rise in research on specific trade and development issues. In general, however, the prominence of developing country scholarship on trade governance is far lower than on trade and development issues, and considerably less than that of developed country scholarship on governance.

A number of developed country researchers also offer development perspectives on governance challenges.²⁰ In parallel, many international Non-governmental organisations (NGOs) have advocated in favour of trade governance reforms they believe would better enable attention to development concerns.²¹

Further, a good portion of the research and proposals on trade governance that self-describe as development-oriented emanates from international organizations, such as UNCTAD, the World Bank and various UN agencies. Questions of trade governance have been prominent themes at UNCTAD's regular conferences and in its flagship reports on trade and development (e.g., UNCTAD 2003a, 2007), as well as in also UNDP-sponsored studies, notably its 2003 report on *Making Global Trade Work for People* (UNDP 2003; Rodrik 2001; TWN 2001) and its agenda-setting *Human Development Reports* (UNDP 2005). The South Centre, an intergovernmental think-tank of developing countries, has been a consistent source of proposals on trade governance reform to assist developing countries (see, for instance, 2003, 2008, 2009). The UK's Department for International Development (DFID) also supported a multi-year research project on the Architecture for Trade and Development (GTFA 2005) that engaged developed and developing country experts.

As noted above, debate on global trade governance extends far beyond development concerns. While the interest of leading international trade scholars in the development dimension of trade governance is growing,²² it has not often been the core concern of their scholarship. (To date, scholars of international relations and North-South politics who frequently debate global economic governance have devoted surprisingly little detailed attention to global trade.) For some developed country researchers, the

¹⁶ These were each communications from WTO Member State regarding the Geneva WTO Ministerial Conference held in 2009. The statements were from India, Australia, Brazil, Canada, China, Hong Kong China, European Communities, India, Japan, Korea, Malaysia, Mauritius, Mexico, Norway, South Africa, Switzerland, Turkey, United States and Uruguay (WTO 2009c, 2009d).

¹⁷ For a compilation and review of political statements on reform of the WTO, see Deere Birkbeck and Monagle (2009).

¹⁸ See, for example, Aggarwal (2001); Draper (2010); Kumar (2002, 2007); RIS (2003); Srinivasan (1998); and Stewart (1993).

¹⁹ See, for example, Ismail (2009d); Davies (2009); de la Calle (2000); Ricupero (2001).

²⁰ See, for example, Alavi (2008); Alessandrini (2010); Hoekman (2001, 2005); Stiglitz and Charlton (2005).

²¹ Action Aid et. al. (2000); Das (1998, 2002, 2007); Oxfam (2000); Oxfam International et. al. (2001); TWN (1999, 2001); and TWN et. al. (2003.) In 2000, for instance, ActionAid, CAFOD, Christian Aid, Consumers International, FIELD, Oxfam, the World Development Movement and the Royal Society for the Protection of Birds (RSPB) issued a joint set of proposals on WTO reform (ActionAid et. al. 2000).

²² See, for example, Petersmann (2005b); Steger (2009a); Cottier and Elsig (2011).

motivation for understanding developing country perspectives on governance may not be one of advancing development, but rather a frustration with the languishing Doha Round and a concern for managing the competitive threats posed by emerging developing countries (see, for instance, the debate on China's entrance into the WTO). Indeed, the call for greater attention to developing country priorities has spurred skeptics to question the extent to which the WTO should be considered a 'development' institution.

1.3 Key Contours of the Trade Governance Debate: Putting Development Debates in Context

To place the development dimension in context, the following discussion outlines the contours of five core themes of the governance debate, broader scholarly literature and policy discussions on global trade governance.

A first set of literature explores the political economy of the global trading system. It analyses both the dynamics of negotiations among states, their relationships with non-state actors (e.g., industry and NGOs), and also the interaction among the numerous institutions, rules and processes that comprise trade governance.²³ Here, key themes addressed include the intersection of the WTO with proliferating bilateral and regional trade and investment agreements; the implications of bilateralism and regionalism for multilateralism in trade (Baldwin and Low 2009; Bhagwati 1998; Zedillo 2009); and the WTO's role in global governance, including its interaction with other international institutions (Jackson 1999), most notably the United Nations family (Sampson 2001, 2004, 2005a, 2009) and international financial institutions (Auboin 2004, 2007; Cohn 2003; Siegel 2002; Vines 1998).

A second theme of the literature on global trade governance explores the interface of trade rules and other areas of international law (Pauwelyn 2003) (such as on the environment, human rights, and labour rights),²⁴ voluntary standards (Kirton and Trebilcock 2004), and international declarations and commitments (such as the Millennium Development Goals). A core issue of debate has been the extent to which so-called 'non-trade' issues should be incorporated within trade agreements, subject to side-agreements, or dealt with through complementary action in other international fora or at the national level. In addition, concern about 'trade-and' issues has stimulated proposals for incorporating assessment and evaluation of sustainable development, environment, poverty and gender impacts into trade governance.²⁵

A third preoccupation of scholars of trade governance has been processes of trade negotiation, decision-making and dispute-settlement.²⁶ Frustration with the failure to seal a Doha Round deal has prompted a raft of proposals to make the WTO a more effective and efficient negotiating institution. Other proposals to improve trade negotiations are motivated by goals of greater fairness and of transforming trade agreements from being mercantilist instruments that serve multinational commercial interests to ones that respond to sustainable development imperatives.²⁷ For some, the focus has been on transparency of trade negotiations, decision-making and dispute settlement processes, and their implications for national

²³ See, for instance, Barton et. al. (2006); Blustein (2009); Higgott (2009); Hudec (1975, 1987); Odell (2000); Steinberg (2002).

²⁴ See Alvarez (2002); Beukel (2001); Cohn (2003); Conca (2000); Deere (2004); Esty (1994); Petersmann (2004, 2005a); Sampson (2001, 2009); Trachtman (2002); and WWF (1999b).

²⁵ Deere Birkbeck (2009a); Gehring and Segger (2005); IISD (1999, 2000); Konz et. al. (2000); Schorr (2004); Turner et al (2008); and von Moltke (2010).

²⁶ See Cottier (2007, 2009); Cottier and Takenoshita (2003, 2008); de Bievre (2002); Dunning (2002); Ehlermann and Ehring (2005); Elsig (2009); Evian Group (2007); Footer (2006); Jackson (1997); MacGinnis and Movsesian (2000); Ostry (2002); Rolland (2010); Steger (2009b); van Dijck and Faber (1996); and Ziegler and Bonzon (2007).

²⁷ Deere Birkbeck (2009a); Eagleton (2006); Gehring and Segger (2005); IISD (2000); IISD and ICTSD (2004); Meléndez-Ortiz and Delhavi (2000); Sampson (2005b); Von Moltke (1996).

sovereignty and democratic processes..²⁸ A further subset of the literature on trade governance examines the legitimacy of the WTO and its accountability to citizens, and assesses opportunities for participation and oversight by civil society groups, labour unions, social movements and parliaments.²⁹

In the WTO context, concerns about decision-making have yielded debate on the merits of the use of the concept of a ‘single undertaking’ in WTO negotiations and mini-Ministerials (Wolfe 2004, 2009), as well as on alternative approaches to decision-making, including ‘critical-mass’, variable geometry and plurilateral agreements.³⁰ To facilitate progress in negotiations, researchers have explored issues such as how to make better use of Chairs in WTO negotiations (Odell 2005), options for differentiating among developing countries in the negotiation and application of WTO rules, and possibilities for the ‘graduation’ of some countries from ‘developing’ status. (Hoekman 2005; Keck and Low 2004; Mitchell and Voon 2009). There has also been considerable attention to the political economy of engaging developing countries in new Rounds of negotiations, and strategies for incorporating new issues (such as competition, investment and services) on the trade negotiating agenda (Krueger 1999; Lawrence 2006).

Fourth, as alluded to above, the WTO has been a focal point of governance debate. Beyond the WTO negotiation process, reform proposals have also been advanced for several more of the WTO’s functions (Deere Birkbeck and Monagle 2009),³¹ as well as its internal administration.³² On the latter issue, analyses have covered the role and responsibilities of the Secretariat and the Director-General; the appropriate selection process for the Director-General; the Secretariat’s management, staffing and culture; the appropriate scale and allocation of Secretariat resources; the sources of the WTO’s budget (including trust funds and contributions to the regular budget); internal transparency within the Secretariat (such the de-restriction of documents); and, appropriate arrangements for the Secretariat’s relationship with member states and stakeholders. Scholars have also debated proposals for the creation of a WTO Executive Board (Steger 2010; Blackhurst 1998), for bolstering the WTO’s ‘missing middle’ of policy deliberation (Evenett 2008; Low 2009a; Deere Birkbeck 2009), and greater ‘constitutionalization’ of the WTO.³³

In terms of the WTO’s functions, analysis of the WTO’s dispute settlement system and its negotiation function dominates the scene.³⁴ There is also growing interest in improving the WTO surveillance and

²⁸ On national sovereignty and democracy, see Bacchus (2004); Barfield (2001); Nader and Wallach (1996); Public Citizen (1999); and Wallach and Sforza (1999).

²⁹ On legitimacy and accountability, see Bellmann and Gester (1996); and Esty (1998). On participation of non-state actors, see Charnovitz (2000, 2002); Halle (2007); Hilf (2003); Lacarte (2004); Marceau and Pedersen (1999); Marceau and Stilwell (2001); Shell (1996); van den Bossche (2009); Wilkinson (2002a, 2002b). For engagement of parliaments in trade policy-making, see Chutikul (2003); and Shaffer (2004a). On corporate influence, see Eagleton (2006).

³⁰ See Gallagher and Stoler (2009); Low (2009b); McMillan (2010); VanGrasstek and Sauvé (2006); WEF (2010).

³¹ Using the analytical framework advanced in Deere Birkbeck (2009a), which proposes a functional approach as a complement to existing approaches, Deere Birkbeck and Monagle (2009) review a diversity of proposals for WTO reform.

³² Key contributions in these areas include: Alvarez-Jiménez 2009; Blackhurst 1998; Blackhurst and Hartridge (2004); Bohne (2010); Elsig (2007); Steger (2007, 2009b); and Steger and Shpilkovskaya (2009).

³³ See, for instance, Cass, (2005); Howse (2003); Howse and Nicolaidis (2003); Petersmann (2005a); and Joerges and Petersmann (2006).

³⁴ This literature touches a vast range of issues related to improving the efficiency and transparency of the WTO dispute settlement process, as well as but also on matters such as judicial activism at the WTO (Bacchus 2004), the role of the Secretariat in dispute proceedings, and the balance between the WTO’s legislative and dispute settlement functions (Barton et. al. 2006; Steinberg and Goldstein 2009); opportunities for the public to observe and input into proceedings; the role of the Appellate Body and the panels; and the appropriate role for the Secretariat in the dispute settlement process, as well as the appropriate role of international organizations in WTO proceedings; the relationship between WTO dispute settlement processes and other international judicial bodies; as well as relationship between WTO law and other sources of international law.

monitoring mechanisms to address the failures of compliance with the WTO's notification system, and more recently to address the rise of crisis-related protectionist pressures.³⁵

Finally, the development dimensions of trade governance is both a discrete issue and one that arises in each of the four areas discussed above.

To understand the origins and motivations of development oriented proposals, it is helpful first to review the key contours of debates on trade and development. The development dimensions of the trade governance debate – and the contributions of this book to it - are then the focus of the remainder of this chapter.

1.4. The challenges of Trade and Development

The interactions between trade and development have inspired a vast literature by economists, development analysts, and political scientists. Analyses of trade and development take up a vast array of issues, many of which have links to governance debates. Indeed, this literature sets the scene for much of the debate on how better to govern global trade for development. This section thus briefly reviews some of the key aspects of the trade and development debate over the past five years to provide context for the governance proposals set forth in this book.³⁶

A first sub-set of the literature studies the relationships between trade, trade agreements and trade liberalization, on the one hand, and growth, development and poverty alleviation on the other.³⁷ Here, there have been disagreements between critics opposed to globalization (Dunkley 2000), who are sceptical of the relationship between openness, trade and growth, and those who argue that freer, more open markets are a prerequisite to the trade expansion they believe will drive growth. In between these two positions are a vast range of views on the nuances on questions of what kind of openness, at what pace openness should proceed, and what kinds of supportive institutions might facilitate development. Many critics call for rejecting the so-called 'Washington Consensus' on trade liberalization (Rhagavan 2000b; Rodrik 2001), which they consider part of a discredited neo-liberal policy package. Among these, some argue in favour of 'bottom-up' and nationally-oriented approaches to development as well as 'fair trade' initiatives,³⁸ while others work to improve the rules, promote a rules-based system and devise a development-friendly approach to open trade. This debate has in turn spurred a vast literature on the impacts of trade flows, rules, and liberalization on social policies, regulation and services, food security and rural poverty (Rodrik 2001; WTO and ILO 2009; Burnett and Manji 2007),³⁹ as well as on particular segments of population, such as urban and rural communities, informal labourers, and women (Nadakavukaren Schefer 2010; Williams 2002). This literature also draws attention to the persistent marginalisation of the smallest, poorest and most vulnerable countries from the benefits of participation in the global trading system.⁴⁰

³⁵ Baldwin and Evenett (2009); Collins-Williams and Wolfe (2010); Lamy (2007); Mavroidis (1991-1992); and Wolfe (2010).

³⁶ For a broad overview of literature on trade and development, see Irwin (2003).

³⁷ See, for instance, Cline (2004); Guha-Khusnobis (2004); Hertel and Winter (2005); McCulloch et al (2001); Trachtman (2003); Turner et al (2008); UNDP (2009).

³⁸ On fair trade movements and activities, and the challenges of transforming global trade in this direction, see Reynolds et. al. (2007).

³⁹ On developed country agricultural policies, food security and trade negotiations, see Diao et al. (2003); Diaz-Bonilla et al (2003); Dowlah (2004); Hoda and Gulati (2008); Rosset (2006); Stevens et al (2000). Analysis of impacts includes many national case studies. See, for instance, Aggarwal and Lee (2010); Ingco (2003); Mattoo and Stern (2003).

⁴⁰ See Bora et. al. (2005); Centre for Policy Dialogue (2003); Commonwealth Secretariat and World Bank (2000); Grynberg (2006); Jones et. al. (2010); UNCTAD (2004); and Wang (1997).

A second theme of scholarly debate on trade and development explores specific trade issues of concern to developing countries, including market access to developed countries markets; the obstacles imposed by discriminatory tariff escalation; preference erosion; trade rules deemed to favour developed countries (such as the WTO's Agreement on Trade-related Intellectual Property Rights (TRIPS)); of international supply chains by major developed country multinationals; developed country agricultural policies and subsidies; and the abuse of anti-dumping rules. A considerable part of this literature has focused on the links between trade reforms, industrial policy and investment (Kumar 2002; Laird and de Cordoba 2006; Shadlen 2005); the need to dismantle discrimination against developing countries (Hoekman 2004); the appropriate nature of development strategy in a globalized economy; and the importance of flexibilities in trade rules (K. Gallagher 2005).

A third area of the trade and development literature takes up legal dimensions of the WTO and its development obligations (Ezeani 2010). It includes studies on the participation of developing countries in the WTO legal system (Thomas and Trachtman 2009); the role of WTO law in developing countries (Bermann and Mavroidis 2007; Nottage 2008); and understanding what provisions are most used by and against developing countries (Horn and Mavroidis 2003).

A fourth area of attention focuses on devising specific proposals to help developing countries better advance their interests in the negotiation and implementation of multilateral, regional and bilateral trade arrangements. Central to this effort have been initiatives to devise a positive developing country agenda for trade negotiations (UNCTAD 2000, 2003 and 2007), including developing country options on individual topics of trade negotiation (Hoekman and Martin 2001; Jha and Vossenaar 1999). Amidst the Doha Round of trade negotiations, this work has focused on what the Doha deal needs to include to fulfil the development mandate of the negotiations.⁴¹ This has included specific works on operationalizing the principle of Special and Differential Treatment (SDT) and the concept of policy space for developing countries (Correlas-Leal 2007; K. Gallagher 2005; Stevens 2003a, 2003b); as well as on implementing WTO rules in ways that advance their development (Correa 2000; Deere 2008; Finger 2007; Shaffer 2006). Researchers have also proposed elements needed to make the overall package of trade arrangements more development-friendly, including, for instance, more attention to issues of migration, commodities trade, as well as to technology transfer (Hoekman et al 2003; Mattoo and Subramaniam 2003; TWN *et al* 2003).

A final area of analysis takes up institutional and strategic issues relevant to how developing countries participate in trade (Page 2004). Here, scholars have debated the local conditions under which deeper economic integration can support development (Birdsall and Lawrence 1999) and the relationship between national institutions, trade policy reforms and the development outcomes of trade (Rodrik 2002, 2007). The literature here includes studies of the limited supply-side capacities of developing countries to profit from trade opportunities where they emerge, and the institutional constraints to managing the socio-economic impacts and trade-offs that accompany adaptation to new trade rules. The launch of the 'Aid for Trade' Initiative in 2005 (WTO 2006b) has spurred numerous works on how best to boost those capacities as well as on what kinds of assistance would be most helpful. Scholars have also debated the economic and political merits of regional economic integration efforts among developing countries and of boosted South-South trade cooperation, and set forth detailed agendas in each area (RIS 2003; 2007).

⁴¹ See, for instance, Anderson et. al. (2005); Stiglitz and Charlton (2005); TWN (2003), and van Dijck and Faber (2006).

2. PUTTING GLOBAL TRADE GOVERNANCE IN CONTEXT: SUSTAINABLE DEVELOPMENT CHALLENGES IN THE GLOBAL ECONOMY

The remainder of this chapter reviews the proposals presented in this book, placing them in the context of existing contributions on improving the development-orientation of global trade governance. Notably, in each area, there is not necessarily a unified or single view. The priorities and emphasis of different regions and sub-sets of countries (e.g., small states, least developed countries (LDCs), emerging powers), as well as stakeholders within them, can vary widely. Where this book is otherwise silent on some issues that have featured significantly in policy debates, I refer the reader to relevant sources and proposals.

The first priority advanced in this book is that of placing global trade governance in the context of broader global governance challenges and priorities in the area of social and sustainable development.

To set the scene, Ocampo opens the book by exploring what greater fairness means in the global economy.⁴² He observes that the power asymmetries that characterize the global economic system largely determine divergence of income levels among countries.⁴³ He also observes a second asymmetry ‘between the rapid globalization of (some) markets and the relative weakness of the international social agenda’, which he regards as essential to overcoming worsening inequalities within countries.

Ocampo joins other contributors to this book in his emphasis on values. Together, they present the pursuit of an effective and inclusive global trading system as a global public good, both for the purposes of legitimacy but also for producing fair outcomes.⁴⁴ They emphasize that the credibility of international agreements is undermined when capacity to implement them is weak or absent. In the face of mercantilist pressures on the global trading system, the book emphasizes the importance of values of solidarity, fairness, human rights, environmental sustainability, and of social justice within and between countries for the pursuit of governance that is more responsive to developing countries. Alongside the policy work of integrating development principles and equity goals, Puri argues in Chapter 2, is the political challenge of fostering global solidarity needed for the WTO to reinvent itself as a global ‘development’ good.

Interest in stronger alignment of international economic arrangements and policymaking with development goals has been a long-standing theme of development-oriented scholarship and policy advocacy, as have calls for greater coherence between policies for managing intersecting macroeconomic issues (i.e. trade, finance, debt and development policy).⁴⁵ These concerns have spurred efforts to enshrine the principles of ‘policy space’ for development strategy and special and differential treatment into the governance arrangements that impact global trade, whether at the bilateral, regional or multilateral level (Rodrik 2001; RIS 2007). In addition, the impact of the global financial crisis on trade, has spurred new emphasis on the importance of global cooperation to ensure predictable financing for developing country exports, whether through commercial banks, bilateral export credit and risk management facilities, or multilateral organizations (Abreu 2009).

⁴² On concepts of fairness and justice in international trade, see Barry (2006); Brown and Stern (2007); Moellendorf (2005); Moore (2010); and Risse (2007).

⁴³ For scholarly discussions of the various dimensions of power in international trade, see Eagleton-Pierce (2007); and Shaffer (2004b).

⁴⁴ For more on global public goods and international trade, see Bac 2007 and Mendoza 2003.

⁴⁵ Akyuz 2004 2009; Khor 2001; Rhagavan 2000; Rodrik 2001; Puri 2008; South Centre 2009; UN 2009b.

Several contributors to this book reiterate the need for the interactions among the WTO, international financial institutions, regional and other international regimes for global governance development banks), to focus on development priorities. They call for greater deference to the United Nations as the most representative forum for global economic decision-making, boosting the status of other international organizations in WTO processes, and improving the WTO's cooperation with other international organizations, particularly UN agencies.

In Chapter 2, for instance, Puri argues that:

At the UN, the WTO, the International Monetary Fund (IMF), and the World Bank, as well as in emerging global economic fora such as the G-20, governments need to take a holistic view that integrates the development perspective into trade, financial, monetary, environmental and technology governance systems. They need to balance the needs of liberalization with those of transparency, good regulation, and oversight, while increasing the voice and participation of developing countries in decision making. Greater coherence, less fragmentation, and the elimination of asymmetries, including in the trading system, are critical.

In Chapter 10, Chimni also emphasizes the importance of properly placing the WTO in the context of 'other international institutions that collectively impinge on the ability of the Third World to pursue independent economic and social policies.' In Chapter 3, Nadal calls for better integrating 'debates on global trade governance with analysis of how macroeconomic strategies and policy packages operate in the real world' and what their joint impact on sustainable development may be.'

In her chapter, Puri also emphasises the importance of bolstering the role of the UN and UNCTAD in efforts to achieve more effective, coherent and development-enhancing coordination of global economic policy. She calls for the UN to be given greater recognition as the repository of development-focused knowledge and experience. , In particular, she proposes that a UN Global Economic Coordination Council, established at a level equivalent to the UN Security Council, be charged with independent international analysis, supported intellectually through contributions and participation from all the relevant global institutions and members of the UN Secretariat and the WTO. She argues that this Council would serve as a more democratic alternative to the G20 Leaders' Summits for promoting development, consistency, and coherence as central policy goals of major international organizations.

There has also been considerable interest among development advocates in the linkages between global trade governance and the suite of international arrangements and commitments to address social issues, human rights, cultural and environmental challenges, including those with major economic implications, such as system for managing climate change (Stilwell 2009). Views vary on how best to govern this intersection. In Chapter 1, Ocampo draws attention to the idea that improved monitoring is a vital, albeit often overlooked, prerequisite for stronger coherence and accountability of the international community to objectives agreed upon at world conferences and summits. He argues for the regular 'production, dissemination, and analysis of information on the situation of economic, social, and cultural rights, and on the provision of both 'global public goods' and 'goods of social value.' He argues that such 'evaluations should be discussed at representative national forums, with active participation by parliaments and civil society.'

In Chapter 4, Meléndez-Ortiz and Biswas highlight the challenges to constructive, coherent interaction and coordination among trade arrangements and with the multiplicity of other institutions and rules

affecting trade and sustainable development.⁴⁶ They caution that coordination efforts may be slow to yield results and advise governments to work for ‘institutional subsidiarity’, meaning that ‘issues should be discussed wherever relevant, but with specific decisions to be negotiated in the institution most appropriate to do so.’ Observing that efforts to boost the coherence of trade and other regimes around sustainable development goals may rely on progress at different levels, whether at the national level (e.g., natural resource management),⁴⁷ or through international action (e.g., on carbon pricing or on liberalization of trade in environmental goods and services),⁴⁸ Meléndez-Ortiz and Biswas warn that the utility of ‘subsidiarity is contingent on sustainable development-friendly outcomes in each forum.’

In Chapter 3, Nadal also takes up environmental sustainability objectives, arguing that we must examine global trade and its governance in light of their interaction with other components of macroeconomic policy that condition trade dynamics, impact the environment and affect peoples’ livelihoods. He uses examples from Latin America to demonstrate how trade is one component of a bigger policy package in which monetary and fiscal policies, financial deregulation, and income policies can play a much more important role than trade in shaping the economic forces that affect the environment. On this basis, he proposes reforms to the international monetary system, stronger regulations for international finance and capital flows, a new approach to debt management and cancellation, and overhauling how development and global environmental stewardship are financed, as well as reforms to the international trade regime. On trade, he argues for greater attention to responsible use of balance of payments provisions when countries face crises; a new approach to agricultural trade that more directly addresses food security, livelihood and sustainability concerns; addressing concentrations of market power; and for a new generation of international commodity agreements (ICAs) to help stabilize commodity markets, promote value-added activities in developing countries and boost the terms of trade for countries reliant on primary commodity exports.

A further challenge taken up by contributors to this book is that of managing the relationships between multilateral trading system, regional integration and bilateralism.⁴⁹

On the one hand, there is strong concern about the impacts of regional and bilateral trade agreements on the integrity of the multilateral trading system and on trade flows (e.g., concerns about trade diversion). The asymmetries of North-South Free Trade Agreements (FTAs) are cited as examples of the unfairness of global trade arrangements and the pressures that developing countries face to sign trade deals that may undermine their ability to promote development. (For instance, while developing countries successfully negotiated concession in the Doha Declaration on TRIPS and Public Health, many have found that bilateral FTAs undermine their ability to use such flexibilities (Abbott 2004)) (Heidrich and Tussie 2009). Negotiations between the European Union and African, Caribbean and Pacific (ACP) countries to conclude Economic Partnership Agreements (EPAs) have also spurred considerable controversy, not only due to concerns about the relationship between such preferential arrangements and WTO rules, but also due to concerns that negotiations go beyond market access to include regulatory measures (Bilal and Grynberg 2007; Erasmus 2009; Faber and Orbie 2009). Preferential market access programs (such as the

⁴⁶ Stilwell (2009), among other analysts, highlights the importance of mutual observerships among secretariats of international regimes at their respective negotiations as a prerequisite for coordination.

⁴⁷ See, for instance, Deere and Esty (2001).

⁴⁸ Meléndez-Ortiz and Biswas provide several examples of how this might be possible. They suggest that ‘if a group of governments got together and cooperated on these other factors – for instance, by harmonizing standards or making them interoperable, and establishing incentives for the sharing of trade secrets linked to green technology – it would substantially expand the market for environmental goods.’ In addition, they propose that ‘WIPO could focus on an instrument to protect folklore and traditional cultural expressions, while also serving as a repository for best practices on the protection of genetic resources.’

⁴⁹ See, for instance, Bhagwati (2008); Low et. al. (1999); and Tanijuchi (2007).

U.S. General System of Preferences and the African Growth and African Opportunity Act (AGOA)) also attract criticism, such as on their complex rules of origin, which in practice diminishes the level of market access actually achieved. In the case of North-South arrangements, many countries concede to deals that they acknowledge are unfair, arguing on strategic grounds that the economic costs may be offset by the benefits of stronger political relations with particular trading partners and boosted development and military assistance. In this book, contributors argue for reform of rules of origin requirements, greater transparency of negotiation processes (see section 5), restraint on the part of developed countries, and deference to multilateral negotiation processes and principles (such as SDT).

On the other hand, there are numerous bilateral trade agreements as well as regional cooperative arrangements (such as ASEAN) and economic unions among developing countries. Indeed, the number of such arrangements has been growing. The South African Customs Union (SACU), among the oldest of agreements among developing countries, and Mercosur in Latin America have been joined, for instance, by trade integration agreements in the context of the West African Economic and Monetary Union (WAEMU), the Common Market for Eastern and Southern Africa (COMESA), and the South Asian Association for Regional Cooperation (SAARC). Although they have achieved varying degrees of success and institutionalization, many developing countries express support for greater regional integration as a complement or alternative to multilateral cooperation (Drabek 2010; Schiff and Winters 2003).

Several authors in this book take up the importance of improving governance arrangements for regional economic communities and integration initiatives as well as for their intersection with international regimes. Ocampo (Chapter 1) argues that ‘the international order should offer ample room for the functioning of strong regional institutions respectful of a rules-based global order; in other words, a system of “open regionalism”.’ In fact, he argues that building a strong network of regional institutions could be the best way to gradually build a better international order. To this end, Luke and Bernal (Chapter 13) recommend greater attention to providing Aid for Trade through regional economic communities as one way to boost their effectiveness.

A further priority for several analysts in this book is to continue improving arrangements for South-South trade cooperation (Bernal et. al. 2004). In light of the growth of South-South trade, Puri highlights in Chapter 2 the importance of UNCTAD’s Global System of Trade Preferences among Developing Countries (GSTP) as an integral part of global trade governance. She calls for strengthening UNCTAD’s role in facilitating arrangements and negotiations for the promotion of South-South trade through the GSTP.

3. IMPROVING HOW DEVELOPING COUNTRIES PARTICIPATE IN GLOBAL TRADE GOVERNANCE

Among many studies of the political economy of the global trading system,⁵⁰ a growing number explore the evolution of developing countries’ roles and concerns within the global trading system.⁵¹ As the prominence of developing country coalitions and of several emerging developing countries in international trade negotiations mounts, their strategies and performance are a rising topic of interest as

⁵⁰ Helleiner (1992); Hoekman and Kostecki (1996); Khor (2001, 2002); Krueger (1984); Srinivasan (2001); TWN (2001); and World Bank (1993).

⁵¹ See Hudec (1987); Jones (2009); Kim (2010); Michalopolous (2001); Rhagavan (1990, 1997); Tussie (1987); and Wilkinson and Scott (2008).

well.⁵² Moreover, scholars and experts have set forth lessons for developing countries, as well as proposals and strategies for bolstering the impact of their coalitions⁵³

In this book, discussion of how developing countries participate in global trade governance focuses on four areas: 1) analyzing the implications of the rise of emerging developing countries; 2) boosting the role and impact of developing country coalitions; 3) addressing the specific challenges that small and poor countries face in trade negotiations; and 4) improving how developing countries organize themselves at the national level to devise and advance their international trade policy objectives.

3.1. The Rise of Emerging Developing Countries

The rise of emerging developing countries over the past decade has reconfigured the power matrix of international economic relations. China, India and Brazil, for instance, are now frequently present in the ‘inner circle’ of global economic decision-making, including in the trade arena. At the WTO, they have taken leadership in forming key developing country coalitions, most notably the G20 countries on agricultural trade (da Motta Veiga 2005; Narlikar and Tussie 2004).

Among analysts of the trade relations of developing countries, there is considerable debate about the strategic role, expectations, and responsibilities of emerging powers in the global trading system (Hurrell and Narlikar 2006; da Motta Veiga 2009; Narlikar and Vickers 2009). At the regional level too, questions arise about the role of the new powers in regional integration initiatives, their responsibilities and roles vis-à-vis regional neighbours, and expectations of them as regional powers on the global stage, including the extent to which they can or should carry with them any regional mandate.⁵⁴

A further question is how the rise of certain developing countries as ‘middle’ powers impacts WTO negotiations and the prospects for developing country coalitions. The rise of key developing countries certainly complicates cooperation among heterogeneous developing countries with diverse interests. It has also reignited debate on whether some developing countries should be ‘graduated’ out of that category. Many developed countries loathe the idea of allocating special and differential treatment equally, calling for an approach that would enable greater differentiation within the developing country group. In practice, the draft texts of the Doha Round reflect that some differentiation is already happening either on an individual country basis for specific issues or for groups of countries, such as Small, Vulnerable Economies (SVES), landlocked countries, and LDCs. Most developing countries still appear to affirm the relevance and benefits of collective solidarity among developing countries on broad overarching issues of development, but some fear that the insistence on treating all countries similarly undermines their ability to achieve concessions from developed countries fearful of the competitive threat from middle powers (Bradlow 2010). A growing number of individual developing countries now openly suggest that countries such as China, Brazil and India should be treated differently to other developing countries in order to open the way for weaker developing countries to secure much-needed flexibility in the content and application of trade rules. There is also some confusion about the degree to which emerging powers represent, and are perceived to represent, other developing countries and the trading system as a whole.

⁵² See Deere Birkbeck and Harbourd (2011); Kahler and Odell (1989); Narlikar (2003); Narlikar and Odell (2006); Patel (2007); and Yu (2008).

⁵³ See Das (2002); Odell and Ortiz Mena (2005); Odell (2006); Tussie and Glover (1993); Tussie and Lengyel (2002); and Wilkinson (2006a).

⁵⁴ These questions were a major theme of regional dialogues co-hosted by the Global Economic Governance Programme with international partners and developing country research institutes in Brazil, India and China in 2007 and 2008. See Deere Birkbeck (2009a).

As the biggest emerging power in the international trade arena, China's trade policies and its objectives with respect to the governance of trade are intensely debated. Alongside the expanding Chinese share of global trade, investment and development aid, are criticisms of human rights practices, labour standards and environmental performance, as well as product safety. On the political front, China faces pressures to alter exchange rate policies considered to undermine the competitiveness of other economic powers already threatened by Chinese productivity and export growth.

In this book, Gao proposes that as China takes up its seat alongside other major powers at the heart of trade decision-making, its increasingly active role should be welcomed with mutual understanding and accommodation, not fear or suspicion (Chapter 6). Given its diverse interests, he argues that China's degree and style of engagement on different aspects of global trade governance will probably vary. Gao predicts that China's recent pursuit of bilateral and regional trade agreements across the world will slow. On the WTO front, he suggests that it is unlikely that China will propose any sweeping changes to its governing structure. Instead, Gao proposes that China will most likely be a system 'maintainer' with a focus on refining technical rules to fine-tune the system, mostly targeting those rules that it finds discriminatory against itself (rather than general WTO rules). He also predicts more WTO disputes involving China as either respondent or complainant observing that these will likely reflect the tensions between the economic and political systems of China and the fundamental principles of the WTO, which were designed by and for economies that operate in vastly different environments.

Several authors take up questions about the implications of the rising role of emerging powers for efforts to improve the fairness and efficiency of WTO decision-making. In Chapter 5, Narlikar argues that the WTO's efforts to accommodate the new developing country powers at the heart of its decision-making has produced new inefficiencies, heightened its proclivity to deadlock, and exacerbated disengagement and disillusionment among all its stakeholders. While she observes that very little can be done to alter the balance of power itself, she argues that appropriate institutional reform could help the multilateral trading system retain the advances it has made in terms of fairness while addressing the concerns of efficiency (for elaboration of her proposals, see Section 5 below). In Chapter 9, Bernal cautions against placing too much hope on the emerging developing countries to advance the diversity of developing country interests. He warns that we should not assume such countries are the logical or accepted spokespersons of all developing countries or that the problem of participation in negotiations has been solved. Indeed, he cautions that the elevation of some developing countries to new leadership positions 'should not be mistaken for change in the governance process', warning that their presence at the WTO's 'High Table' may make governance reform less urgent for achieving their interests.

3.2. The Role of Coalitions

Financial and human resource constraints regularly restrict the effective participation of developing countries in international trade decision-making. This book highlights the need and potential for more effective use coalitions among developing countries, and with developed countries, to promote trade agreements that reflect their interests and maximise the benefits of their participation in the international trading system. Already, the growth of developing country coalitions has been the subject of considerable analysis.⁵⁵ This book highlights some of the key current issues and debates on the prospects for developing country coalitions in trade governance and advances proposals for boosting their effectiveness.

In Chapter 18, Yu outlines three kinds of groupings among countries in the WTO context: 1) issue-based coalitions (e.g., the G-20, the G-33, the NAMA-11, the Core Group on Trade Facilitation); 2)

⁵⁵ See, for example, Page (2003); Patel (2003a); Patel (2007); Rolland (2007); and Yu (2008).

characteristic-based groupings (e.g., the Least Developed Countries (LDC) Group, the Small Vulnerable Economies (SVE) Group, and the G-77/China); and 3) region-based groupings (e.g., the African Group, the African, Caribbean, and Pacific (ACP) Group, the Group of Latin American countries (GRULAC)). Notably, there are also groupings that combine developed and developing countries (e.g., the Cairns Group, the Friends of Fish).

The analysis in this book identifies several reasons that coalitions can be useful to developing countries. First, coalitions can help countries build negotiating positions where their understanding of issues might otherwise be weak. Second, participation in coalitions can expand the representation of countries as their interests can be represented in multiple places. In some instances, countries have joined coalitions simply to ensure that their specific interests are heard by that coalition (Deere and Harbourd 2011). Third, coalitions can help build convergence among the WTO membership (Ismail and Vickers, Chapter 16 in this book). Fourth, the growing use of coalitions has significantly transformed the WTO's 'green room' process. Previously, closed-consultations included only a handful of developing countries on an individual basis. As coalitions have improved their communication strategies and information dissemination, the internal transparency of the Green Room has increased (Patel 2007). In addition, the composition of the Green Room has been expanded such that key players plus relevant coalitions are represented, making for a more legitimate and effective consultation process. However, important obstacles to effective developing country participation still remain (see Section 5 below).

The analysis in this book instructs us that purpose, characteristics, internal functioning (e.g., internal leadership and coordination), and degree of formality of developing country groupings evolve. After their early beginnings as mostly informal information-based exchanges, many of today's developing country groupings both share technical capacity and develop common negotiating platforms (Patel 2007). Of the 112 WTO Members that are commonly recognized as, or who describe themselves as, 'developing countries', 99 (or, 87.61 percent) are Members of one or more developing country-only groups or coalitions (Yu, Chapter 18 in this book). Moreover, overlapping Memberships occur across these coalitions.

Across coalitions, effectiveness in negotiations varies. Indeed, in some cases, the purpose of particular groupings is not to advance specific issues in negotiations, but rather to defend broad principles or to provide a regional view on particular issues (such as the choice of Chairs for WTO negotiating groups). There is a commonly held view that issue-specific coalitions are most effective in the tussle of negotiations, while regional groupings often struggle to find sufficient commonality of interest to present a compelling position to negotiating partners. Among characteristic-based coalitions the LDC group is considered to have a sufficiently specific goal to be effective, while the effectiveness of even broader coalitions such as the G-77/China, the G-90 and the G110 is considered highest when they focus on political statements and advocacy on broad principles, such as the importance of addressing development priorities in the Doha Round. Yu observes that strong group action occurs best where there is a shared perception by the group Members of having a common agenda that they are willing to promote on a given issue. Even for issue-specific coalitions, however, it remains to be seen whether effectiveness will continue in the end-game of negotiations as countries come closer to having to make binding, individual trade commitments.

Recommendations set forth in this book focus on improving the internal organization, negotiating strategy and tactics of coalitions. Yu emphasizes the need to improve the internal workings and management of coalitions to boost their sustainability, including developing clear principles for representation of coalition members and internal transparency. He highlights that: 'Institutionalized coordination and group leadership mechanisms are vital to the long-term survival and strength of coalitions', and notes the importance of investing in working relationships among developing country delegates for smooth intra-

and inter-group coordination. Yu recommends that members that represent coalitions in WTO Green Room meetings need to be sure that they carefully listen to all views beforehand, follow the mandate given by the group, and faithfully report back on discussions to interested members in a timely fashion. He also underlines the need for greater institutional support for coalitions (including for research, analysis, coordination, staffing, web presence, etc) (also see Laurent in Chapter 8, and Deere and Harbourd 2011). (Several further recommendations on coalition-building to boost the influence of the smallest and poorest countries on the global trading system are advanced in section 3.3. below).

3.3. Improving the Participation of the Poorest and Smallest Countries

Small states and very poor countries face well-known structural economic constraints and power asymmetries that heavily circumscribe their room for manoeuvre in international trade negotiations (Jones et. al. 2010). The limited economic weight of such states often produces pessimism about their prospects for influence on the global trading system. African countries face particular challenges in their efforts to generate greater benefits from the international trading system. In this book, several contributors offer views on the key constraints that the smallest and poorest developing countries face and explore what can be done to improve their engagement in international trade.

In Chapters 8 and 9, Bernal and Laurent emphasize the importance of international trade to small states. Given the vulnerability of small countries to asymmetric bilateral trade deals, they affirm the importance of a rules-based multilateral trading system to protect and advance small countries' interests. Whereas some commentators suggest that small states have too little at stake to warrant greater attention to engagement at the WTO, Bernal and Laurent insist that even where only a small proportion of the trade of small states is conducted under WTO rules, and even where their main trade activities are limited to a few exports, they nonetheless have a strong interest in clear, predictable multilateral rules and in contributing to the negotiation of new rules, particularly those which may be important to them in the future or which may present implementation challenges. In sum, they insist that exerting greater influence on the formation, application and enforcement of WTO agreements is a key imperative for small states.

The quest for greater small state influence demands attention to more effective participation, including through more consistent attendance at WTO meetings, giving sufficient national priority to trade policy, and more effectively mobilizing available resources, capabilities and tactics. Noting that the resources required for such improvements are beyond those available to individual small states, Bernal calls for greater political cooperation, technical collaboration, and collective advocacy among small developing economies as well as greater external support to provide resources unavailable to them.

In Chapter 9, Bernal also reiterates the importance of democratizing WTO decision-making processes. In Bernal's view, the rise of some developing countries to the inner circle of WTO decision-making is 'no substitute for a concerted and persistently prosecuted campaign by SDEs [small developing economies] to reform governance in a way that allows for their adequate participation'. He contends that small developing economies 'cannot take for granted the support of other developing countries' in advancing their particular interests' (also see Grynberg and Remy 2003). Bernal proposes that to 'break or dilute the stranglehold of the developed countries and large emerging economies on WTO governance, the various streams of disenchantment' with the status quo need to coalesce, including not only small states but also those that share some or many of their concerns and vulnerabilities.

In addition, Bernal also offers specific proposals for how the group of SVEs at the WTO could improve its effectiveness, notably by establishing clearer criteria for membership and by encouraging those WTO members that do suffer extreme problems of smallness to become more active in the group and its agenda-setting. He also proposes that better briefing of the SVE representative before restricted group

meetings and insisting on accountability to the wider group would boost the representation of the interests of group members. Alongside efforts to better define and strengthen the SVE coalition, Laurent (Chapter 8) emphasizes the importance of reinforcing practices that de-emphasize power in WTO negotiations (such as growing transparency of negotiations and greater openness of the Green Room).

The challenge of how to facilitate improved representation in Geneva of small and poor countries, including those without missions in Geneva, remains a critical issue (Nordstrom 2002; Weekes et al 2001). In Chapter 11, Lee argues that participation of developing countries should not be left to the financial generosity of individual Members, but should rather be provided systematically through the WTO's regular budget.⁵⁶ To address challenges of limited individual capacity and the high financial cost of establishing or boosting representation in Geneva, some regional groups, including the African Union, the ACP group, the Organization of Eastern Caribbean States, and the Pacific Islands Forum, have established offices or secretariats in Geneva, sometimes with the support of developed country donors. The Commonwealth Secretariat has also supported a Geneva representative and researchers to support the work of developing country members of the Commonwealth, and is preparing to support office space for Member countries in need of greater representation in Geneva.

This book underlines the need for specific improvements in global trade governance to support LDCs.⁵⁷ In Chapter 7, Kaushik and Mukiiibi, call on LDCs to exert greater ownership and leadership of efforts to integrate them into the trading system. They observe that the common positions taken by the LDC group at the WTO are a positive step. At present, the LDC group draws on support from the secretariats of other groupings they belong to (such as the ACP group), organizational support from the WTO Secretariat, and technical advice and support from Geneva-based organizations such as UNCTAD, AITIC (now closed), the International Centre for Trade and Sustainable Development (ICTSD), and the IDEAS Centre. To supplement such support, and in addition to strengthening SDT for LDCs in trade rules, Kaushik and Mukiiibi propose the creation of a Geneva-based institution, the focus of which would be to ensure better representation of their interests in the Doha Round negotiations and the WTO's regular Committee work, as well as broader debates on global trade governance. As proposed, the LDC institution would be created by LDCs, with additional resources from international donors, and would undertake activities such as examining and summarizing for national officials the suite of reports and submissions from Member states, Secretariat studies and WTO notifications.

Regrettably, this book does not include a dedicated chapter on the particular challenges African countries face in the global trading system. Existing studies of African participation in trade decision-making offer proposals on strategy for participation at the WTO⁵⁸ and its Ministerial meetings (SEATINI 2003), lessons from the Cotton Initiative (Anderson and Valenzuela 2007), and analysis of the dynamics of the ACP-EU negotiations for Economic Partnership Agreements (Faber and Orbie 2009).

The process by which four small West African countries successfully propelled the issue of cotton subsidies onto the Doha Round agenda has also been well analysed. The reality, however, is that beyond provisions of adjustment assistance, and assurances of more to come, the 'Cotton 4' countries have not yet secured any concessions from the United States in terms of reduced subsidies. Two key questions remain. Are the successful aspects of the 'cotton case' replicable by other African countries? How can success in agenda-setting be translated to success in securing actual commercial benefits from more powerful trading partners?

⁵⁶ This point has also been made by Alejandro Jara, WTO Deputy Director General (Deere et. al. 2007).

⁵⁷ Bhattacharya (2009); Brenton (2003); Centre for Policy Dialogue (2003); and Mattoo and Subramanian (2004).

⁵⁸ Anderson et. al. (2006); Blackhurst et. al. (2000); Ohiorhenuan (2005); Oyejide and Lyakura (2005); and Wang (1997).

In considering options for more effective African engagement in trade, it is important to acknowledge that the specific trade interests of African countries can vary widely as do their national economic circumstances and priorities. The region includes rising economies, developing countries and LDCs. Few African countries expect or rely on the more economically powerful countries of their region, such as South Africa and Nigeria, to reflect their interests. Those African countries not classified as LDCs frequently express frustration with the special treatment given to neighbours with whom they share many of the same development challenges and express concerns about the implications for their competitiveness of the special treatment given to their poorer neighbours.

Many African trade officials complain of a lack of detailed understanding within their countries of the implications of different trade proposals, which in turn undermines their participation negotiations and their ability to form effective coalitions. The prospects for effective collective action by African countries are further frustrated by the multiplicity of intersecting trade negotiations under way. The countries of the region are divided into several separate regional economic communities (e.g., for West Africa, East Africa and Southern Africa), but rarely organize their participation in WTO negotiations along these lines. Further, many African countries are simultaneously engaged in negotiations with the European Union, for which they are required to organize themselves subregionally in groupings that do not coincide with the regional economic communities to which they belong.

Beyond concerns about participation in trade negotiations, African countries also have distinct substantive priorities for improvements in the governance of global trade. In the wake of the global financial crisis, for instance, African analysts emphasized the enduring importance of debt relief to the economic and trade prospects of Africa, as well as the urgency of providing Aid for Trade and of addressing fluctuations in commodity prices and trade finance. There were also calls for an additional special Africa-led stimulus package to boost trade and economic recovery. Njinkeu (2009), for instance, argues for a Vulnerability Fund for Africa that would integrate trade, monetary and fiscal measures to facilitate economic adjustment, nurture investment in human capital and physical infrastructure, support appropriate safety nets, and assist small and medium sized enterprises (SMEs) vital to economic recovery in the region. African analysts also emphasize the importance of strengthening regional arrangements for trade and addressing the challenges of rules of origin in the preferential trading agreements upon which many countries rely (Oyejide 2009). Indeed, for most African countries, more trade is conducted under regional and preferential bilateral trade arrangements than under multilateral trade agreements (Oyejide 2009).

3.4. Bolstering National Trade Policymaking Processes and Negotiation Capacity

Contributors to this book offer several proposals for improving how developing countries make trade policy and for building national negotiating capacity. There is wide recognition of the importance of stakeholder participation and inter-ministerial consultations to the prospect of development-oriented national trade policies and beneficial outcomes from international negotiations. A number of existing studies offer options and best-practices for greater transparency and opportunities for public participation in national trade policy-making and in national negotiating teams (Bonzon 2009; Brock and McGee 2004; CUTS International 2009a, b; Gallagher et. al. 2005; Jones et. al 2010; Halle and Wolfe 2007; Ostry 2004; Saner 2010; Saprà 2009).⁵⁹

In Chapter 1 of this volume, Ocampo emphasizes the development rationale for national institutional capacities and arrangements that reflect democratic goals. He argues that because the nation-state remains

⁵⁹ Further case studies of practices at the national level can be found in da Motta Veiga (2007), Sen (2004); and Zeng and Mertha (2007). Alongside this work, there have also been studies that explore other aspects of the 'domestic' governance of trade, such as the transparency of national trade administration and customs regimes (Marconini 2005).

the main space for the expression of political citizenry, national processes of representation and participation must be allowed to determine economic and social development strategies. He highlights their importance for mediating the tensions that globalization, and global trade arrangements, create in the context of strong international economic asymmetries.

Also in this book, Kaukab (Chapter 19) presents new empirical evidence showing that despite the growing acknowledgement of the need for inclusive processes of global trade governance – and important steps in the right direction - there remains an inclusiveness deficit in trade policy-making processes at the national level and multilateral level. Along with Meléndez-Ortiz and Biswas (Chapter 4), he recommends that developing countries bolster their efforts to establish and use multi-stakeholder consultation fora on trade-related issues at the national level. Meléndez-Ortiz and Biswas also highlight that stronger coherence of positions governments take in different trade-related international fora, a step vital for making trade more supportive of sustainable development, also requires that governments use consultative mechanisms that engage all relevant ministries and civil society.

Kaukab proposes four interrelated actions to improve inclusiveness at the national level: 1) enlarging the composition of the national consultation fora to include representatives of all groups of stakeholders – i.e. the government ministry responsible for trade, other government ministries and agencies, parliaments, industry, small and medium-sized enterprises, multinational companies, labour, consumers, farmers, NGOs, informal sector, and media; 2) strengthening the mandate of consultative fora by obliging the ministry responsible for trade to follow the advice offered by them; 3) ensuring the effective functioning of consultative fora by providing adequate human and financial resources to organize and service their meetings and to finance the participation of stakeholders; and 4) undertaking broad capacity-building of stakeholders on trade issues so that they are for informed participation and to make effective use of the improved opportunities for inclusiveness.

The ability of many states to leverage what bargaining power they do have is thwarted by weaknesses on a number of fronts in regard to negotiating strategies, tactics, accountability, and incentives facing negotiators, as well as by psychological factors and poor leadership (Jones et al. 2010). To complement proposals for using coalitions to bolster their negotiating leverage (see Section 3.2. above), authors in this book underline the need to address the challenges of building effective negotiating teams, which include deficits in human resources, access to information and expertise as well as in institutional coordination and communication. In Chapter 19, Kaukab calls for greater efforts to bridge the gap between national and multilateral levels of trade governance; regular briefings by staff of Geneva Missions for the national consultative fora and for the parliamentarians; periodic visits of representatives of groups of stakeholders to Geneva during important negotiations; inclusion of representatives of all groups of stakeholders in official delegations to the WTO Ministerial Conferences; and the incorporation of some non-State stakeholders and parliamentarians in the smaller delegations that attend informal meetings during the Ministerial Conferences.

Several contributors to this volume also highlight outstanding needs for more effective, development-oriented legal and regulatory advice, and technical training on trade negotiations and the implementation of trade agreements. They highlight the importance of the quality and independence of such advice. They also call for greater support for the representation of developing countries in Geneva (see above on proposals to boost support for developing country coalitions and for missions not represented in Geneva) and for travel to relevant negotiations. Importantly, while Aid for Trade includes negotiation and legal assistance, most attention focuses on supply-side capacity-building and trade-adjustment. As with Aid for Trade, other programmes and initiatives such as the Enhanced Integrated Framework (WTO 2006b) too rarely invest in negotiating capacity in ways that would boost developing country power. In Chapter 8, Laurent recommends, for instance, that existing donor programmes to build trade negotiating capacity in

developing countries should be critically reviewed with an eye to making them more results-orientated and to grant the beneficiaries a fuller role in the planning and management of the programmes.

Finally, Laurent draws attention to the neglected issue of the use by developing countries, particularly small countries, of paid lobbyists and public relations experts to assist them in their negotiations and interactions with trading partners. He notes that lobbyists ‘can be useful where small States do not have permanent or effective diplomatic presence in the target city and, even where they do, these experts can help them organise professional information and conduct outreach campaigns’. He cautions, however, that lobbyists are expensive, meaning that there is competition for the best talent. To ensure lobbyists are used effectively, he highlights the need to define their terms of reference precisely, with measurable and clearly identifiable outputs and results, and to incorporate into contracts adequate provisions for effective oversight by designated government representatives. Most importantly, he argues that small States should view lobbyists not as a substitute for their own diplomatic engagement, but as a supplement to their outreach and representation to host governments, media, NGOs, and other centres of influence.

4. STRENGTHENING WTO GOVERNANCE TO RESPOND TO DEVELOPING COUNTRIES

A third area of debate on development and global trade governance concentrates on WTO reform. The debate on how much the WTO can do for developing countries has been under way since its creation and many of the issues date from the earlier GATT years (Finger and Winters 1998). Since the launch of the Doha Development Agenda in 2001, the discussion of options for mainstreaming development concerns has intensified (Ismail 2005, 2009c; Lee 2007; Qureshi 2009), as has the skepticism in some quarters that the WTO should or can become more of a ‘development institution’. Importantly, the WTO is not a static institution. Box 1 illustrates a number of the improvements, refinements and reforms made to WTO governance over the past fifteen year.⁶⁰

This section begins with a review of debates on how development should feature in the mandate and core principles of the WTO, which in turn inform the organization’s governance (and thereby its activities and agreements). It also notes how proposals on the appropriate scope of the WTO feature as part of the development and trade governance debate. It then summarizes proposals for improving the responsiveness to developing countries of the WTO’s functions in the following areas: dispute settlement, monitoring, capacity-building and Aid for Trade, and public outreach, as well as evaluation and research. The section concludes with a summary of proposals for reforming the WTO’s institutional structure and internal management to work better for developing countries. The WTO’s negotiation function is dealt with separately in section 5 of this chapter. (Note that recommendations related to the WTO’s interaction with other regimes were discussed above in section 1 of this chapter).

4.1. The WTO’s Mandate, Principles and Scope

The contributors to this volume emphasize the importance of a rule-based, multilateral approach to trade. Their analysis confirms, however, enduring tensions over the underlying purpose, mandate, and strategic direction of the WTO, the core multilateral trade institution.

⁶⁰ For further analysis of reforms thus far and outstanding recommendations, see Deere Birkbeck and Monagle (2009); P. Gallagher (2005); and WTO (2007).

In their chapter, Ismail and Vickers argue that the WTO needs to shift away from the traditional mercantilist approach established under the GATT (Chapter 16). They argue that the core purpose of the WTO is too often misconstrued as one of opening trade and creating new trade rules, whereas its broader overall goal should in fact be development. In her chapter, Puri similarly argues that the core mission of the WTO must be to promote development alongside the ‘global public good’ of a rules-based multilateral trading system. Further, for several analysts in this book, the heart of WTO reform must be systemic questions about how it addresses goals of sustainable development, and the challenge of coordination with other actors in the international system in pursuit of these goals. In Chapter 4, for instance, Meléndez-Ortiz and Biswas argue that sustainable development should be the yardstick by which the WTO is measured, setting out existing WTO mechanisms and provisions that could be fairly easily modified or elaborated to address sustainable development concerns. Chimni, on the other hand, argues in Chapter 10 that employment should be reinforced as the key goal of the WTO.

Box 1. Selected Examples of WTO Reforms and Evolution since 1995

Following are selected examples of WTO reforms undertaken since 1995 as well as some evolutions in practices and functioning of the multilateral trading system. In each case, there are many more examples that could be listed. The point here is simply to highlight that the multilateral trading system has not been static in the face of demands to adapt and change. There are, however, diverging perspectives on the desirability and impact of some of these changes, and on whether they go far enough or too far.

- *WTO Management and Internal Administration:* The WTO Secretariat has adopted performance-based management tools, and the internal organization of the Secretariat and the structure of its senior management have evolved. Members adopted guidelines regarding the process for selecting the organization's Director-General.
- *Strategic Direction, Policy Deliberation and Problem-Solving:* Examples of reform-related efforts include the commissioning of the Sutherland Report; the recent decision to regularize the holding of Ministerial Conferences; the creation of new working groups such as the WTO Working Group on Debt, Trade and Finance at the 2001 Doha Ministerial as well as a new WTO Working Group on Technology Transfer; and the Director-General's leadership of new initiatives on Aid for Trade and on the Cotton issue.
- *Negotiation Function:* Members agreed to the creation of a Trade Negotiations Committee for the Doha Round. The nature of the informal processes of negotiations has also consistently evolved (including how Green Rooms are conducted as well as the roles of Chairs and facilitators) as has the process for generating draft negotiating texts. WTO members adopted a decision regarding the process of Accession for LDCs (2002) and Members have made increasing use of a variety of coalitions in the negotiation process.
- *Monitoring, Assessment and Evaluation Function:* WTO Members established a new transparency mechanism for monitoring regional trade agreements, an independent assessment of the WTO's technical assistance was commissioned, and the WTO Secretariat is now monitoring trade policies introduced by governments struggling to cope with financial and economic crisis.
- *Dispute Settlement Function:* Amicus briefs have been received by a number of WTO panels and by the Appellate Body (although these have received varying responses from the relevant WTO adjudicating bodies and from Member States); some dispute settlement proceedings have been made open to the public; the good offices of the Director-General have been used in an effort to resolve at least one dispute; and a number of WTO members collaborated to establish in 2001 an Advisory Centre on WTO Law (ACWL) that provides legal advice to developing countries.
- *International Cooperation and Coordination Function:* Actions undertaken include an agreement between the World Intellectual Property Organization (WIPO) and WTO Secretariats on the provision of intellectual property-related capacity building; joint publications with some international organizations on particular trade-related issues (e.g., with the World Health Organization, the International Labour Organization and the UN Environment Programme); partnerships with other international organizations in the creation of the International Trade Centre; collaborations in the hosting of joint seminars and workshops; and the participation of the Director-General in the G20 Leaders' meetings.
- *Outreach Function:* The WTO now undertakes an annual WTO Public Forum, provision is made for an NGO Centre at WTO Ministerial Conferences and NGO briefings take place in Geneva. The WTO's internet site has been enhanced considerably, and decisions regarding document de-restriction have been made. In addition, the General Council adopted Guidelines for Arrangements on Relations with Non-Governmental Organizations, the Secretariat has made a series of ad hoc informal arrangements for NGO and media participation in some of its events and activities, and the WTO Secretariat collaborates with the Inter-Parliamentary Union for its periodic conferences on the WTO.
- *Capacity Building Function and Aid for Trade:* A Doha Development Agenda Global Trust Fund was established to facilitate member support for capacity-building, and the Integrated Framework (IF) was created to facilitate a coordinated effort among providers of capacity building and technical assistance. Subsequent reforms were undertaken to transform the IF into an Enhanced Integrated Framework and the Aid for Trade Initiative was launched.
- *Research Function:* The resources allocated for the WTO's internal research have grown over time. There has also been increasing emphasis on collaborations with external researchers and with developing country research centres. The WTO has also initiated its own annual *World Trade Reports* since 2003 and has launched its own scholarly journal, the *World Trade Review*.

Source: Deere Birkbeck and Monagle (2009)

Contributors to this volume also offer views on the principles that should underpin the WTO. No contributor to this book challenges the core WTO principles of national treatment and most-favoured nation treatment, but many call for greater attention to the importance of SDT as a core foundation principle for multilateral rule-making. Their analysis highlights the dissatisfaction among developing countries with the operationalization of SDT in existing trade agreements (Stevens 2003a, 2003b) (developed countries also have concerns, see section 1.3 above). Whereas some analysts argue elsewhere that SDT should simply be a matter of further delaying the extended deadlines for developing countries to implement WTO Agreements (Srinivasan 1998, 2002, 2004), authors in this book insist on a more substantive approach. Notwithstanding ongoing negotiations as part of the Doha Round on SDT, authors in this book offer several concrete proposals. In Chapter 10, Chimni calls for recasting the SDT principle in the language of ‘hard law’, and advocates concrete steps to implement the ‘right to development’ in international law, including at the WTO. In Chapter 7, Kaushik and Mukiibi argue that SDT for LDCs should be locked into the commitments of WTO Members so that they are ‘legally enforceable, predictable, and therefore more beneficial to the LDCs’. In Chapter 11, Lee also calls for preserving the principle of non-reciprocal obligations for LDCs as a component of SDT. In addition, Meléndez-Ortiz and Biswas (Chapter 4) propose that WTO members could use the emergence of developing country sub-groups (such as SVEs, landlocked developing countries, and specific issue-based coalitions) ‘to experiment with new, deepened SDT provisions that would restore to beneficiaries an expanded policy toolkit through which to pursue sustainable development goals like food security and the creation of productive industrial capacity’.

A further development dimension of debate on the WTO governance concerns the appropriate scope of the WTO agenda and its agreements. Indeed, for some experts, the ‘meat’ of building a more development-friendly architecture at the WTO is less about institutional considerations and more about the scope and content of the WTO negotiating agenda (Mattoo and Subramaniam 2003). Here, critics highlight the challenges faced by developing countries in the implementation of existing WTO Agreements. They also debate the question of whether and how the WTO should take up ‘non-trade’ issues (such as labour and the environment). While Chimni argues that international trade should not be used as a tool for pursuing ‘non-trade values’, others see WTO attention to issues of sustainable development and human rights as vital (see chapters by Meléndez-Ortiz and Biswas, and Nadal). In reality, many issues of environmental sustainability are already integrated into WTO negotiations and dispute settlement rulings. The Secretariat has also taken the initiative to jointly produce reports with other international organizations on the intersection of trade and climate (WTO and UNEP 2009), the environment (WTO 2000), and health (WTO and WHO 2002) although not yet on development.

In addition to calls for greater market access for developing countries exports, several authors in this book make concrete suggestions for changes in rules and the scope of the WTO that could form part of a post-Doha agenda.⁶¹ In Chapter 11, Lee calls for rules that would allow the imposition of ‘Development Facilitation Tariff’ aimed at infant industry protection, and for a reform of the TRIPs, TRIMS and GATS Agreements to benefit developing countries. In Chapter 3, Nadal echoes many of Lee’s recommendations for specific changes to WTO Agreements that would increase the policy space available to developing countries. In Chapters 1, 2, and 10, authors call for greater attention to rules on migration at the WTO and for rules that allow greater movement of natural persons among WTO members (UNCTAD 2003b; Winters et al 2003). Authors also highlight the importance to developing countries of progress in the area of trade facilitation (see Puri, Chapter 2), greater support for Aid for Trade (see Luke and Bernal in Chapter 13) (including adjustment assistance when the reduction of trade barriers exacerbates

⁶¹ For efforts to define a post-Doha Agenda for the WTO, also see Hoekman (2001).

unemployment (see Chimni, Chapter 10)), and attention to addressing the problems facing the primary commodity exports of developing countries (see Nadal, Chapter 3). In Chapter 4, Meléndez-Ortiz and Biswas propose that WTO members could work to anticipate potential challenges to trade governance that might arise from governments' pursuit of sustainable development. They call for a deeper conversation on trade and climate in the WTO,⁶² arguing for instance that the WTO members could reinvent the 'Permanent Group of Experts' (PGE) set up by the WTO's Agreement on Subsidies and Countervailing Measures (SCM) to examine energy subsidies, including issues such as transparency in government support to the clean energy industry. While not addressed extensively by any author in this book, the challenge of better global management of trade imbalances and exchange rate policies has emerged as a critical trade-related concern after the most recent global economic crisis as has the question of the WTO's role in that broader global economic governance effort.

4.2. The WTO's Dispute Settlement Function

The challenges developing countries face in using and benefitting from the WTO dispute settlement system have attracted consistent concern since the creation of the WTO.⁶³

This book affirms the view that both the WTO's dispute system and the level of developing country participation could and should be improved. It highlights that financial, political and technical barriers to participation persist. In Chapter 12, Niall Meagher argues that developing and least-developed countries continue to need increased legal capacity to engage fully in the WTO dispute settlement system. Drawing on experience of helping such countries engage in the system, he proposes that one means of increasing developing countries' capacity and familiarity with the process would be for them to participate more frequently as third parties in disputes. Additional countries, such as the United States, the European Union and Japan, for instance, routinely participate as third parties in disputes. Further measures that could be taken to boost awareness among developing countries what proceedings involve could be continued efforts to open to the public aspects of WTO dispute proceedings, such as through web-casting. Further challenges facing developing countries include inadequate capacity to monitor where violations of WTO commitments that harm their economic interests have occurred (see Ghosh, Chapter 14). An important constraint here is the limited resources of developing country industries, and small and medium-sized businesses to monitor and analyse overseas market conditions and to draw problems to the attention of their governments.

To address the capacity gap, several authors in this volume propose greater financial contributions to the Advisory Centre on WTO Law (ACWL) (including from the WTO's regular budget) to boost its ability to respond to country requests for assistance, as well as an expansion of its mandate. One contributor recommends incorporating the ACWL into the WTO system through a new Council on Trade and Development (see Lee, Chapter 11). In Chapter 8, Laurent argues that a strengthened ACWL is not enough, noting that many developing countries want to build greater capacity within their borders. Moreover, he emphasizes that many of the WTO's small members do not belong to the ACWL. While LDCs receive the ACWL's services free, other developing countries are expected to become members and/or pay for services provided, which in the case of smaller countries may dissuade them.

⁶² They propose that this could include discussion of proposals for border carbon adjustments (BCA) – taxes or other charges on imports from carbon-unrestrained countries – to 'level the carbon playing field'.

⁶³ Bown (2009); Bown and Hoekman (2005); Brewer and Young (1999); Busch and Reinhardt (2003); Chaytor (1998); Ching (1993); Francois et. al. (2008); Lacarte and Gappah (2000); Nordstrom and Shaffer (2007); Oteng (1997); Rhagavan (2000a); Van Grassek (2001).

Beyond shortages of legal capacity in many developing countries, there are other explanations for their not making greater use of the WTO's Dispute Settlement Mechanism. Many of the poorest and smallest developing countries conduct most of their trade under preferential trading arrangements, rather than WTO rules, and so disputes on their trade are not likely to be brought to the WTO, but rather addressed (or set aside) through bilateral agreements (Nottage 2009).

This book also sets out proposals for reforms to the WTO Dispute Settlement Understanding (DSU) that could address constraints developing countries face in using the system.⁶⁴ In Chapter 10, Chimni recommends the adoption of a 'national deference principle' as the standard of review in disputes relating to developing countries. He also proposes that both the WTO and the WTO Appellate Body should take greater cognizance of Third World legal scholarship in their proceedings. To promote the consideration of sustainable development perspectives in disputes, Meléndez-Ortiz and Biswas (Chapter 4) propose that WTO panels could be empowered to invite input from the secretariats of multilateral environmental agreements (MEAs) if relevant environmental issues in a trade dispute are the subject of an MEA. In Chapters 8 and 9, Laurent and Bernal each draw attention to the challenges developing countries face in securing compliance with WTO decisions. Here, existing proposals to address this problem include calls for making greater use of mediation and alternative processes for resolving disputes; creating a 'small claims' procedure; and advancing the possibility of compensation as a remedy (Mercurio 2009). Laurent and Bernal each highlight the limited prospects of retaliation or cross-retaliation by small states. While neither dispute the significance of several WTO decisions that authorize developing countries to cross-retaliate (such as by reducing their commitment to protecting intellectual property rights held by nationals of the offending country), they note that except in very specific cases, the deterrent effects of potential threats to development assistance and fears of informal political or trade retaliation limit the feasibility of either retaliation or cross retaliation.⁶⁵

4.3. The WTO's Monitoring Function

Monitoring is an integral part of trade governance. The 2008-9 global economic crisis spurred renewed interest in a strengthened WTO role in monitoring trade policies and imbalances as one way to avert protectionist pressures (Baldwin and Evenett 2009; Lamy 2007; Mavroidis 1991-1992; Wolfe 2010). Even before the crisis, however, there were concerns about the effectiveness of the multilateral trading system's mechanisms for promoting transparency of trade policies and measures (Collins-Williams and Wolfe 2010). Only a few studies, however, take up the issue from a development perspective (e.g., Ghosh 2008; Quereshi 1990).

There are several different monitoring processes and transparency provisions at the WTO, and their number has grown since the WTO was established. These include notification requirements embedded in many WTO Agreements (such as for subsidies); institutionalized surveillance mechanisms such as the Trade Policy Review (TPR) Mechanism (which has been operating since 1989 and periodically reviews the trade policies of all WTO members); and monitoring work conducted by the WTO's regular committees. In recent years, further mechanisms have been created, most notably to monitor regional trade agreements, food safety standards, and Aid for Trade.⁶⁶

⁶⁴ Other suggestions of procedural improvements made in this book, include a procedural suggestion by Meléndez-Ortiz and Biswas (Chapter 4) that WTO members could adopt all panel proceedings by default, unless vetoed by a party to the dispute.

⁶⁵ On cross-retaliation, see Bown and Pauwelyn (2010).

⁶⁶ In addition, a new SDT monitoring mechanism appears to be attracting consensus in the Doha negotiations. See <http://ictsd.net/downloads/bridgesweekly/bridgesweekly10-13.pdf> [Accessed in November 2010].

From an institutional perspective, the main purpose of the WTO's transparency norm (in terms of governments disclosing information to the public and each other) is to 'enhance the effectiveness of the WTO agreements' (Collins-Williams and Wolfe 2010). In this book, Ghosh highlights the implications of poor multilateral monitoring mechanisms for developing countries. For the poorest members of the trade regime monitoring mechanisms could help address challenges of limited resources and capacity for their own surveillance.⁶⁷ Ghosh observes that poorer nations need advance warning of changes in the trade policies or barriers of major trading partners, analyses of the impact of those changes, and information to help them counter pressures to over comply with their commitments and to promote compliance by rich countries.

Ghosh argues for improving the WTO TPR Mechanism to boost the participation of developing countries and its benefits to them. Drawing on a detailed analysis of TPR reports and meetings, Ghosh observes several deficiencies. The TPR reports often do not describe or analyse the most contentious trade policies; the procedure of advance questions is used more by developed countries such that the direction of peer pressure flows against developing countries; and participation in TPR meetings is dominated by a handful of WTO members.

Among his recommendations, Ghosh proposes initiatives to target members' reporting behaviour and expose laggards; increase developing country representation among discussants of the WTO's trade policy reviews; make high-level representation at TPRs mandatory; increase media coverage of reviews and publish follow-up documents to show how countries have responded to concerns raised in meetings (also see Ghosh 2008, 2010). Noting that WTO monitoring processes do not facilitate inputs or allow participation from non-state actors, Ghosh highlights that greater engagement by non-state actors could help boost the timeliness of information in the face of slow institutional and self-reporting, both within and outside the WTO's formal processes. Already, third party efforts to provide information on trade are growing, including online databases.⁶⁸

There are now many proposals for harnessing the TPR as a tool for integrating development and other dimensions into trade policymaking (ranging from environment to labour, gender and human rights considerations), and for stronger roles for other international organisations, experts and stakeholders in the TPR process. Meléndez-Ortiz and Biswas, for instance, propose that tweaking the Trade Policy Reviews to assess environmental and developmental factors would make the mechanism a useful tool for integrating sustainable development goals into trade policy-making (Chapter 4). There are also proposals to link the TPR process more closely to the assessment of adjustment costs arising from the implementation of WTO rules, to the appropriate legal obligations for different members, and capacity-building needs (see Luke and Bernal, Chapter 13). There have also been calls to include in the TPR a review of national trade policy-making processes (Ostry 2002, 2004) and of developed country implementation of their commitments to provide trade-related capacity-building (see Section 4.4 below).

To integrate an assessment of the impacts of WTO Agreements on development as part of the TPR, Ghosh proposes that greater coordination would be necessary between different WTO divisions and with the World Bank, IMF, regional banks and national research institutions to incrementally increase policy analysis. An alternative would be to boost the process of Trade Policy Reviews to see them as a tool for fostering input from and dialogue with researchers and stakeholders at the national level on the impacts of

⁶⁷ Ghosh observes that this capacity may grow as countries trade more, particularly if the emphasis of capacity building shifts from not only self-evaluations but also monitoring foreign trade barriers.

⁶⁸ See, for instance, the work of the Global Subsidies Initiative (monitoring subsidies by WTO members) at www.globalsubsidies.org, and of the Global Trade Alert (monitoring protectionism) at www.globaltradealert.org. [accessed in November 2010].

agreements (Deere Birkbeck 2009a). Meanwhile, the burden would be left on WTO members to ask questions about impact during TPR or WTO committee meetings. On the SPS front, for instance, notifying members are already expected to mention how their policies would affect others (in the case of regional trade agreements (RTAs), however, there has been categorical opposition to evaluations of their impact on the WTO system). There are also questions about how well-suited the WTO's TPR process is to expanded activities. Already, the TPR accounts for almost one-third of the WTO's regular budget. Sceptics argue that TPR reviews are too infrequent (every four years for developing countries, and less frequently for least developed countries) to serve as a dynamic tool for policy dialogue.

Importantly, there have been some changes in the WTO's monitoring function that benefit developing countries. Luke and Bernal (Chapter 13) note that the TPR's scope has already expanded to include monitoring of Aid for Trade and some countries have nominated themselves as subjects for this expanded review (see section 4.4. on Aid for Trade below). Similarly, developing countries have successfully sought ways to boost other reporting mechanisms in ways that serve their interests.⁶⁹ At their insistence, the Committee on Trade and Development (CTD) rather than the Committee on RTAs (CRTA) is the forum for reviewing RTAs among developing countries. In regard to Sanitary and Phytosanitary Standards (SPS) measures, developing countries secured provisions calling on developed countries to advise how new standards they adopt would offer special and differential treatment to developing countries.

From a political perspective, the call for more timely, compliance-oriented information and impact analysis from the TPR will face several hurdles. First, the WTO Secretariat faces constraints on its mandate to investigate and evaluate the policies of its Members. Second, developing countries fear that greater transparency and more analytical reports could target their policies more than those of the rich. They have also resisted proposals to increase peer pressure and institutionalize follow-up to the TPR for fear this may work against them as they may be less able to use transparency mechanisms to coax changes on the part of developed countries. Larger developing countries, some of which already use their own resources for external monitoring, may prefer to maintain the status quo. Poorer countries regrettably remain largely disengaged from the TPR process and these related debates.

4.4. Capacity-building and Aid for Trade

Several authors in this volume consider how improvements in the governance of Aid for Trade could enhance the effectiveness of trade-related technical assistance and capacity-building.⁷⁰ There are already many critical assessments of the content and flows of capacity-building for trade, now widely referred to as 'Aid for Trade.'⁷¹ Key facts that emerge from these studies are that most developing countries struggle to coordinate the diversity of individual providers of trade-related assistance to their countries, that capacity-building received falls far short of international commitments, and that substantive tensions can arise between donors and recipients where assistance relates to the implementation of contentious WTO norms.

While few analysts refute the importance of Aid for Trade (Njinkeu and Cameron 2008), critical development advocates insist that the provision of such assistance must not be a quid pro quo to reward developing countries for agreeing to include new issues in trade negotiations or for accepting bad trade

⁶⁹ Other procedural innovations include earlier submissions of factual presentations in the case of RTA monitoring and longer comment periods for SPS notifications.

⁷⁰ CUTS et. al. (2006); Deere (2005); DFID (2001); Higgins and Prowse (2010); ICTSD and IISD (2003); OECD (2001); Prowse (2002, 2005, 2006); UNECA (2009); Urpelainen (2009); and WTO and OECD (2009).

⁷¹ Aid for Trade has become short-hand for assistance to developing countries in the following areas: support for building supply-side capacity; adjustment assistance; technical assistance; legal advice and training.

deals (Tandon 2004). They also caution that engagement in the Aid for Trade discussion should not so absorb developing country trade delegates that it distracts their limited resources from engaging in negotiations. In general, however, the governance of Aid for Trade has thus far received surprisingly little attention.⁷² Among those governance-related proposals that have arisen are calls to enhance the monitoring and evaluation of technical assistance; boost the role of South-South cooperation in capacity-building; increase the accountability of donors for the overall level and quality of Aid for Trade; and establish stronger links between trade-related capacity-building and national development and poverty reduction strategies. There have also been specific reform proposals (and some action taken) for each of the main donor collaborations, such as the Enhanced Integrated Framework (EIF), the Agency for International Trade Information and Cooperation (AITIC), the International Trade Centre (ITC), and the Joint Integrated Technical Assistance Program (JITAP) (the latter program was closed in 2009). Other contributions include proposals for a new independent mechanism for capacity-building that would enable recipients to select their preferred providers of assistance from the ‘market place’ of potential donors; shifting emphasis from bilateral efforts to multilateral initiatives such as the EIF or the programs of UNCTAD, and limiting the WTO’s engagement in capacity-building to legal assistance for understanding WTO Agreements (Deere et al 2007). Further proposals are to boost and/or more carefully define the appropriate role of the Bretton Woods Institutions, regional development banks and other international organizations in Aid for Trade. Finally, a number of proposals argue for a greater role for local, non-governmental actors with a durable presence in developing countries - such as civil society groups, research centres and industry groups - as independent providers and recipients of capacity-building.

In Chapter 13 of this book, Luke and Bernal present a critique of the governance arrangements for Aid for Trade. They argue that mutual accountability of donors and beneficiaries has emerged as the most prominent governance principle for Aid for Trade – most notably through the ‘spotlight’ effect of global and regional reviews and through dialogue in fora such as the WTO Committee on Trade and Development (which has focused on identifying what is required from all partners to make the Aid for Trade Initiative work). In their view, attention to equally important issues of transparency, access to and predictability of resource flows has been less prominent in the Aid for Trade governance architecture. They note, for instance, that there is no single point of access, identified process or criteria for beneficiaries to follow in order to tap into the Aid for Trade commitments of bilateral and multilateral donors. They make the case for dedicated regional Aid for Trade financial facilities to support national and regional trade capacity building priorities. Specifically, they argue for empowering regional economic communities (RECs) responsible for implementing regional trade agreements and other cross-border integration initiatives with such facilities, which in turn would be modelled on international aid effectiveness principles. While noting that RECs will need to build their own capacity to take on this intermediation role, the authors argue that these regional facilities would better ensure access to and predictability of resource flows. In addition, the use of regional facilities would give regional integration efforts much-needed momentum, and if appropriately designed, provide national stakeholders with more transparent and responsive vehicles to access to financial support. Moreover, at the national level, they propose that the regional Aid for Trade facilities could be complemented by the establishment of a national Aid for Trade basket fund as a vehicle for managing, coordinating and reporting on bilateral and other support received for national trade capacity development initiatives.

In Chapter 7, Kaushik and Mukibi argue that while initiatives such as the EIF are useful in identifying supply-side constraints, bringing in-country stakeholders on board, and mainstreaming trade in national development plans, countries should take greater ownership of efforts to mainstream trade into national development plans and rely less on donor funding. They advise LDCs to make better use of upfront

⁷² A review of the evolution of debate on these topics since 1999 highlights how much political acceptance of the need to invest aid for trade has grown. See for instance Moore (1999).

assistance available through initiatives such as the European Development Fund, the EIF and the Aid for Trade Initiative to more clearly identify their interests and address their constraints before taking on new commitments in trade agreements. They call for making greater and more focused financial assistance available to help countries meet new product standards that could otherwise impede market access, and for building trade and development issues into national university curricula in LDCs. They also make a specific recommendation for the creation of an LDC-specific institution in Geneva (see section 3.3 above).

Finally several contributors in this book call for better monitoring of the effectiveness of Aid for Trade (AFT) and of the flows of assistance to ensure that developed countries comply with their commitments to provide resources and that credible information is available to all WTO Members.⁷³ Similarly, Lee recommends the creation of an annual Trade-Related Development Assistance Report, whereby developed country Members should be required to report regularly to the Council for Trade and Development on the development assistance they provide (Chapter 11; also see Ghosh, Chapter 14).

4.5. WTO Public Outreach and Participation of Non-State Actors

Developing countries have expressed a range of views on whether and how to expand the involvement of stakeholders, experts, parliamentarians and other international organizations in the work of the WTO. Key issues of debate have included the appropriate role for non-State actors and terms for public access to WTO processes, information and documentation (often referred to as ‘external transparency’ considerations). In this book, several contributors argue that improved interaction between the WTO, non-State actors and parliaments is vital to improving the organization’s development outcomes (for the interaction of the WTO with other international organizations, see section 2 of this chapter above).

Debate often arises as to whether democratization at the international or national level would best advance the interests of developing countries. In the early days of the WTO, India advanced a staunch position against stronger NGO participation at the WTO, fearing that better resourced NGOs from developed countries would most benefit from greater transparency and access, and would further reinforce the dominance of developed country priorities and perspectives on the international stage. Along with influential developing country commentators such as Bhagwati (2001) and Srinivasan (1998, 2002, 2004), India emphasized the national level as the appropriate locus for stakeholder. India also opposed, and continues to resist, proposals to allow the WTO dispute settlement system to receive and consider amicus briefs as part of its proceedings.⁷⁴

More recently, however, the perspectives and practices of developing countries and their analysts have evolved. For instance, the debates at the WTO on TRIPS and Public Health, as well as on cotton subsidies, each involved considerable collaboration among national and international NGOs (including developed country NGOs) and developing country governments. 4). Debates on monitoring of Aid for Trade also suggest that developing countries are willing to let non-State actors contribute when the information generated directly benefits their trade interests. At present, however, poor domestic capacity of non-State actors in many developing countries continues to make their governments nervous about an expanded role for NGOs (both in negotiations and in WTO monitoring processes). As trade grows, however, so too may the interest and capacities of key constituencies in developing countries. Meanwhile, there have already been a number of changes that broaden opportunities for public

⁷³ For the state of play in 2010 on this issue, see <http://ictsd.net/downloads/bridgesweekly/bridgesweekly10-13.pdf>. [Accessed in November 2010].

⁷⁴ The issue of amicus briefs was one of the first campaign agenda items of NGOs working on the WTO. See, for instance, WWF (1999a).

engagement in the WTO since it was created (See Box 21.1) (and the WTO Secretariat has taken an active interest in monitoring and analysing trends in civil society participation (Capling and Low 2010; Gallagher et al 2005)).

In his contribution, Kaukab (Chapter 19) concurs that the WTO has made efforts to provide better entry to non-State actors mainly through greater access to information and improved transparency, but concludes that more is needed. He argues that the WTO and its members cannot continue to hide behind their ‘Member-driven’ and ‘inter-governmental only’ mantra. Noting that almost all international organizations have well-established mechanisms for the accreditation of non-State stakeholders, which provides them with greater access to information and meetings than the WTO currently offers, he proposes a number of ways that the WTO could be more inclusive without changing its basic intergovernmental structure. To improve the participation by national stakeholders from developing countries, he calls for establishing clear criteria and procedures for the accreditation of other intergovernmental organizations and NGOs and for a trust fund to support the participation of accredited NGOs from developing countries so that they have an equitable access to the WTO. He also recommends the creation of a WTO Business and Labour Council (where representatives of business and labour organizations are present) and a WTO Civil Society Organization (CSO) Council (to accommodate the representatives of public-interest NGOs), each of which could develop their own recommendations for consideration by WTO Members.

Kaukab also takes up the issue of parliamentary involvement in the WTO. He reiterates calls for a WTO Parliamentary Assembly, proposing that at least two parliamentarians from each Member – one from the ruling and the other from key opposition parties – be included. This Assembly would deliberate on WTO issues and offer its recommendations to the Membership for consideration. In his contribution to this volume, Chimni (Chapter 10) calls for assigning a greater mandatory role to national parliaments in the negotiation and ratification of WTO Agreements, as well as for changing the composition of negotiating teams to include more women delegates and greater representation for old and new social movements.

4.6. A WTO Assessment and Evaluation Function

Contributors to this book offer several proposals for boosting the assessment and evaluation function of the WTO.

In Chapter 15, Pena sets out a proposal for the creation of a WTO ombudsperson, exploring the needs and challenges such an office should address, its functions, and modalities of operation. He recommends defining an ombudsperson function within the WTO’s institutional structure that would receive complaints from stakeholders within WTO Members and initiate independent investigations of alleged negative impacts of WTO agreements. He argues this function would strengthen WTO transparency and accountability; contribute to increasing the participation of the citizens of all WTO Member States; and facilitate the achievement of the organization’s goal of sustainable development. He recommends a first phase of activity in which the WTO ombudsperson would have limited functions and would produce only non-mandatory, technically-based opinions on the issues the office has been asked to investigate. Requests for such action could be made by civil society groups from any Member country or international NGOs, so long as their own governance arrangements were transparent, and complaints could relate to any inadequacies of the multilateral trading system that could impact sustainable development and transparency. To elaborate the proposal, and build Member State support, he proposes a gradual approach through broad worldwide multi-stakeholder consultations. Based on the feedback received, the WTO Director-General would prepare a concrete proposal for the consideration and eventual approval of the WTO General Council. If, after an independent external appraisal the ombudsperson function has

demonstrated its value and effectiveness, he proposes that the WTO General Council could agree to further improve its modalities of operation and possibly extend its functions as well.

Several authors in this book call for the incorporation of greater assessment and evaluation of the impacts of existing and proposed WTO Agreements into the WTO's governance arrangements. The push for *ex ante* and *ex poste* assessments of the impacts of trade liberalization and trade rules is not new. It has already spurred numerous efforts to devise methodologies and pilot studies of trade impact assessments on gender, poverty, human rights, and labour (3D and FORUM-ASIA 2004; Dommen 2009). Indeed, many countries have now conducted assessments of the environmental impacts of trade agreements on particular sectors, and also of particular provisions, such as rules on intellectual property, on national public policy priorities, such as public health.⁷⁵ In this book, several authors affirm the need to properly understand different impacts of agreements on developing countries and specific groups within them. Meléndez-Ortiz and Biswas (Chapter 4), for instance, call for greater attention to the sustainable development impacts of agreements. In Chapter 10, Chimni emphasizes the importance of reviews of the negative impact of WTO Agreements on developing countries, as well as the impact of and links to IMF and World Bank conditionalities. He also calls for a social audit of WTO Agreements that maps their impact on subaltern classes.

4.7 WTO Research and Statistics Function

Progress towards the kinds of impact analysis and evaluation described in section 4.6 above will rely on improvements in the WTO's capacity to gather, make available and analyse trade data and statistics. This in turn will demand support for countries to gather and report data, and also to rethink the methodologies for some aspects of data collection. A key practical challenge for negotiations is, for instance, how to determine and attribute the origins of products where they combine components from many countries.

Several development-oriented analysts of the global trading system highlight the need to address the information and research gaps facing developing countries (Tussie 2009; Tussie and Lengyel 2002; Francois 2001). It is widely known that many developing countries lack adequate detailed country-level research and practical, detailed negotiation-relevant analysis of their specific interests on particular subjects of WTO negotiations.

Two questions that arise are what the appropriate role and scale of the WTO Secretariat's research function in addressing these shortfalls should be, and how best to build research capacity beyond the Secretariat. While there appears to be at least implicit support or comfort with the WTO Secretariat's growing body of research, there is also a strong push for building research and analytical capacity within universities, research institutes and NGOs in developing countries. Indeed, the WTO Secretariat has been involved in some such efforts. In addition, several contributors to this book emphasize the importance of developing country governments and researchers having a greater role in setting the WTO research agenda and process. In Chapter 2, Puri proposes greater investment in UN research on trade and development, such as the work of UNCTAD. In Chapter 10, Chimni proposes that the WTO secretariat support a journal primarily devoted to publishing Third World writings on WTO reform. In Chapter 7, Kaushik and Mukibi highlight the need for better incorporation of trade and development issues in local university curricula.

⁷⁵ For instance, among WTO members, the European Union carries out sustainability impact assessments (SIAs) on trade negotiations; Canada has done environmental assessments (EAs) of the WTO negotiation; and the USA has conducted an environmental review (ER) of the Doha Development Agenda negotiations. See http://www.wto.org/english/tratop_e/envir_e/reviews_e.htm [Accessed in November 2010]

4.8. The WTO's Institutional Structure and Internal Management

A cross-cutting issue for the WTO is whether its institutional structure is adequate to the task of addressing development and of enabling strategic policy discussions and oversight of the trading system. There have been numerous proposals for new processes, structures and initiatives to strengthen the WTO's deliberative function and to provide a space for policy debate, problem-solving and thinking about long-term strategic direction and challenges facing the multilateral trading system.⁷⁶ Some analysts also take up the question of whether the WTO should have some kind of management committee or executive board of members to guide negotiations and oversee, among other matters, the budget and management of the Secretariat (see Narlikar in Chapter 5).

In his chapter, Lee argues that the current institutional apparatus and regulatory structure in the WTO need to be revised in order to effectively integrate development into international trade disciplines. Among the reforms he proposes are the elevation of the WTO's Committee on Trade and Development to the status of a Council, and the establishment of a coherent body of WTO rules that facilitates development (in the form of an Agreement on Development Facilitation). There are also several proposals in this book for increasing the participation of developing countries in WTO bodies, and for reinvigorating the work conducted in the WTO's regular Committees (also see WTO 2009a). In his chapter, Chimni calls for further development of global administrative law to increase transparency and accountability in the functioning of WTO and WTO-related bodies.

A further set of proposals address the role, management and resources of the WTO Secretariat. A key question in this area is whether a more development-oriented WTO will require more resources for the WTO Secretariat. Since the WTO's inception, some have called for the organization to have greater resources and staff (Blackhurst 1998; Steger 2009a), noting its relatively small size compared to other international organizations. Member States have, however, been reluctant to boost the role, budget and scope for initiative on the part of the Secretariat. This does not, however, mean that the Secretariat has been passive. On the contrary, it has taken numerous initiatives, many of which have ultimately received the consent or blessing of the Members (see Box 21.1). In Chapter 11, Lee argues that the WTO's budget allocation to the activities and functions of trade and development should be significantly increased,⁷⁷ noting that this in turn would demand an increase of WTO staff and resources. Other commentators propose that the case for more Secretariat resources should be made on a function-by-function basis (Deere Birkbeck 2009a). In some instances, the desired function could be better performed by other actors within and outside the multilateral system (e.g., UNCTAD, NGOs, and national universities might, for instance, be better vehicles for meeting the research needs of developing countries).

Several authors in this book also take up the relationship of the Secretariat with Member States, the importance of Secretariat neutrality and concerns about bias (such as bias in favour of greater trade liberalization or of more powerful Member States). Developing countries concerns about the impartiality of the Secretariat have arisen in regard to many areas of the WTO's work, such as in the trade policy review process, the dispute settlement process, the provision of technical assistance and training, and in its research agenda. One response from developing countries has been to take a close interest in the

⁷⁶ Specific proposals include bolstering the regularity and purpose of the Ministerial Conference; boosting the role of Ministers and political leaders in the work of the WTO; reviewing the mandate of the Director-General and Secretariat; and reinforcing the role and operations of the General Council (see Deere Birkbeck and Monagle 2009).

⁷⁷ Lee also argues that the WTO Advisory Centre on WTO Law should also be supported by the WTO budget (see section 3 above).

process for selection of the WTO's leadership (particularly its Director-General) (South Centre 2005) and in boosting developing country representation among the WTO's staff.

Notably, several contributors in this book see possibilities for rethinking the role of the WTO Secretariat in some areas. In Chapter 16, for instance, Ismail and Vickers see potential for the WTO to be selectively involved in the chairing of negotiations. Ghosh's proposals for a more responsive TPR process also implies some expansion and intensification of the Secretariat's activities. Already, the WTO's work in promoting Aid for Trade has boosted confidence in selectively expanding the scope for Secretariat action. Despite initial reservations about the perceived lack of formal mandate from Member States for certain activities, most WTO members concur that the WTO's initiatives to provide regular monitoring on protectionist measures in the context of the financial crisis and there has been wide support for the quality of its expanded research output.

5. IMPROVING TRADE NEGOTIATION PROCESSES

A fourth theme of this book is the fairness, transparency, and inclusiveness of trade negotiation processes (Jawara and Kwa 2003; Narlikar 2001, 2002; Nordstrom 2002). Alongside studies on how to strengthen developing country coalitions and public participation in developing country trade policy-making (see section 3 above), there are numerous proposals for better managing the scope, complexity and asymmetric power dynamics of trade negotiation processes and agreements.

On the development front, a broad suite of studies have well documented the challenges of effective developing country representation in multilateral negotiations at the WTO (Ismail 2008, 2009a, 2009b; Wilkinson 2006a, 2009a, 2009b; Jawara and Kwa 2003) and also in bilateral and regional processes (such as for Free Trade Agreements with the United States and Economic Partnership Agreements with the European Union) (Erasmus 2009; Bilal and Grynberg 2007), particularly for the smallest and poorest countries. In this book, the contributors focus predominantly on the WTO processes.

At the WTO, the ambit of concerns about trade negotiations encompasses the process for agenda-setting; the role of informal consultations; the role of coalitions and other negotiating groups; the role of Chairs in negotiations and the process of WTO Ministerial meetings; the role of the WTO Secretariat in negotiations; the regular work of WTO committees; and the WTO accession process.⁷⁸ Notably, there are a range of opinions on the costs and benefits of informal negotiating processes at WTO, including whether and how these should be reformed and/or formalized. Concern about Green Rooms and mini-Ministerials⁷⁹ has yielded proposals for better guidelines and formal procedures for WTO negotiations, including at Ministerial Conferences, to ensure transparency and fairer representation (South Centre 2003).

Ismail and Vickers (Chapter 16) argue that the litmus test for proposals to reform the WTO's negotiating processes must be how well they balance competing demands for greater efficiency, inclusiveness, and legitimacy. Noting that small informal groups are now the decision-making fora that most shape the main content of proposed WTO deals, they call for greater analysis of the WTO's informal negotiating methods. In Chapter 19, Kaukab proposes measures to improve transparency of WTO negotiations (e.g. by publishing summary records of all meetings and key points of negotiating drafts on the WTO web site without delay), which he argues would enable national stakeholders to approach their own governments for explanations and to offer suggestions. In Chapter 11, Lee also calls for procedural improvements, arguing

⁷⁸ On the appropriate role of the WTO Secretariat, see South Centre (2008).

⁷⁹ Drahos (2003); Ismail (2005, 2007, 2009c, 2009d); Jawara and Kwa (2003); Luke (2000); Narlikar (2004); Narlikar and Tussie (2004); Narlikar and Wilkinson (2004); South Centre (2003, 2008).

that WTO meetings and negotiation schedules should be designed to allow maximum participation of developing countries and that greater use should be made of web-technologies to increase the participation of those developing countries that cannot afford to station experts in Geneva (for other proposals on transparency, parliamentary engagement, and public participation in the negotiation process, see section 4 above).

Ismail and Vickers (Chapter 16) insist that there is no ‘procedural panacea’ that will magically resolve substantive differences over complex issues and divergent national interests, which in their view remain the core challenges blocking progress in multilateral negotiations. They argue against ‘exclusive conclaves’ that shift negotiations from Geneva to national capitals. Ismail and Vickers also adopt the view advanced in the Sutherland Report (Consultative Board 2004) that the WTO should *not* deviate from or abandon the consensus approach to decision-making, but rather strengthen it. In their view, calls for abandoning the single-undertaking and the consensus principle often emerge from a misdiagnosis of the underlying tensions thwarting progress in the Doha Round.⁸⁰

While recognizing that consensus may be a slower and more difficult process that risks both frustration with the system and greater recourse to RTAs, Ismail and Vickers argue in its favour, concluding that ‘more inclusive, democratic and genuinely multilateral methods’ produce more sustainable and fairer solutions in the long term. ‘Not only does consensus force WTO Members to build convergences in their positions and make compromises in the interests of the system as a whole, but it also creates learning opportunities and empowerment for developing and least-developed countries.’ On the reform front, they propose that the rich tapestry of developing country (and developed country) coalitions should be better more reliably represented in WTO decision-making and that WTO Members should develop a code of conduct to provide clearer guidance on the selection and conduct of the Chairs of WTO negotiations.⁸¹ They propose that there may even be merit in strengthening some aspects of the role-agency of the WTO Secretariat in the negotiating process. On a more legal note and to rectify the structural problems in the area of democracy, Chimni (Chapter 10) proposes to amend the Vienna Convention on the Law of Treaties to eliminate the use of economic and political coercion in multilateral negotiations.

This book also takes up the debate on whether the WTO should move towards a more variable geometry of rights and obligations (through, for instance, plurilateral and critical mass decision-making, or weighted voting). To date, only a few contributions to this debate seriously consider the implications of such proposals for inclusiveness and development.⁸² In this book, Chimni calls for exploring alternatives to the single-undertaking (Chapter 10). In Chapter 17, Rodriguez Mendoza and Wilke call for a move away from all encompassing ‘rounds’ of negotiations on an ever increasing number of subjects to more à la carte negotiations, which they propose are more likely to produce significant and efficient results. They argue that a *critical mass* approach would have greater potential than the single undertaking, not only to close the current Doha Round of negotiations, but also to address new issues, such as climate change. To decide when to use the *critical mass* approach, they argue that each negotiation should be evaluated by its merits (rather than by quantitative criteria such as that the countries involved must represent a certain percentage of trade in the sector concerned).⁸³ To ensure consistency with multilateralism, Rodriguez

⁸⁰ Instead, they attribute the ongoing difficulties concluding the Doha Round to a combination of factors, including the hangover of previous asymmetries in negotiating outcomes, substantive divergences of interests among key trading partners, and the challenges of domestic politics within major players.

⁸¹ For more on how to improve the role of Chairs of WTO negotiation groups (both in ongoing Geneva negotiations and at Ministerial Conferences), see Ismail (2009b and 2009c).

⁸² Cornford (2004); Draper (2010); Lanoska (2008); Low (2010b); and Patel (2003b).

⁸³ They note, for instance, that this approach could “leave out countries for which ‘a particular sector is significant in its economy but the country itself is too small to be relevant at the global level. In addition, when new rules are proposed to be negotiated on

Mendoza and Wilke propose: 1) requiring the WTO Ministerial Conference or the General Council to launch the negotiations, thereby implying a collective decision by all WTO Members; 2) establishing criteria for the determination of what constitutes a critical mass on a case-by-case basis, taking into account the political and economic position of individual countries; 3) providing for particular 'opt out' options for WTO Members in negotiation clauses; and 4) applying all agreements on an MFN basis.

Contributors also take up the issue of voting. Laurent (Chapter 8) suggests that where one powerful country withholds consensus on a particular issue of negotiation, the option of taking a vote should be considered. In Chapter 5, Narlikar considers the options for revising the WTO's voting system to remove the inefficiencies of the consensus-based system while still according veto power to the entire membership to ensure they have a meaningful say in the decision-making process. She suggests that one combination would be a critical mass approach together with a voting system that requires a super-majority. Narlikar also rejects proposals for the use of an executive board to resolve negotiation deadlocks, arguing that such a delegation of authority by WTO Member States would exacerbate complaints of disenfranchisement and perceptions of unfairness by formalizing 'the exclusion of the greater part of its membership'.

A final aspect of trade negotiations addressed in this volume is the WTO's accession process. Concerns about the WTO accession process have yielded a number of studies of the challenges for developing countries and recommendations for reform.⁸⁴ Importantly, broader geopolitics sometimes complicates the accession process and the potential for its reform. The Russian accession, for instance, is highly political, and the candidacy of Iran and Syria are both significantly influenced by political considerations.

In this book, Primo Braga and Cattaneo propose several procedural improvements to the WTO accession process, highlighting three core challenges: the difficulties accession countries face with implementation of accession agreements; the length and complexity of asymmetric negotiations; and the prospect that accession deals may undermine perceptions about the fairness of the WTO system. They emphasize that commitments undertaken by some acceding countries are unrealistic, exposing them to pressures for further disciplines through bilateral/regional treaties and the use of the WTO dispute settlement system to enforce accession deals (which in turn could exacerbate hard feelings of new entrants about the multilateral trade system). They also observe that the 'WTO-plus' conditions that form part of most WTO accession deals could risk creating a 'two-tier' WTO Membership, which would not only challenge the GATT principle of non-discrimination but could add to the obstacles facing WTO negotiations as countries believe they have already undertaken 'too much' in their accession deals.

Primo Braga and Cattaneo underscore the need for greater technical support and capacity-building for accession countries at all stages of the WTO accession process. Noting two proposals submitted in 2009 by groups of developing countries (and some developed countries) to make the WTO accession process more transparent and less burdensome for LDCs (e.g. WTO 2009f, 2010b), they endorse recommendations for '1) enhanced institutional mechanisms to provide acceding countries with the opportunity to express their views on the process; and 2) periodic progress reports on accessions to the General Council' (WTO 2010b:11).⁸⁵

issues such as, for instance, climate change, it would be extremely difficult to draw the line between countries that are relevant or not' (Chapter 17).

⁸⁴ Adhikari and Dahal (2003); Charveriat and Kirkbride (2003); Oxfam International (2004, 2005); Primo Braga and Cattaneo (2009).

⁸⁵ The shortcomings of the accession process was a recurring concern at the 2009 Geneva WTO Ministerial Conference. As of early 2010, the WTO Secretariat commenced regular meetings on the progress of LDCs in the accession process.

6. CONCLUSION: POLITICAL STRATEGIES FOR REFORM

This book shows that there is no shortage of development-oriented views and proposals on the question of how to improve the global governance of trade. It also highlights the diversity of views on political strategy for achieving global trade governance that works better for development. These in turn reflect broader debates on how to transform the global economy. Some commentators argue for placing the issue of global trade governance within a ‘Bretton Woods II’ type process that would undertake a systematic and complete reform of the global economic architecture. Others highlight the advantages of a step-by-step approach to targeted trade reforms (Ismail 2009d), while still others advocate a gradual and incremental process of evolution. For the latter, patience and realistic expectations are required.

Yet, some critics caution against what they characterize as mere ‘tinkering’ with the existing system arguing that the real challenges are political (Wilkinson 2006a). In the spirit of more deliberative and democratic global governance (Higgott and Erman 2010), some experts call for building opportunities for greater political deliberation within WTO decision-making (Howse 2002; Pauwelyn 2005) Other critics emphasize the need for broader thinking about whether deep reforms and a dramatically different system for global trade regulation is a prerequisite for achieving significantly greater coherence global development and sustainability challenges (South Centre 2009). For some critics, the emphasis on boosting the power of the governments of developing countries is inadequate, and sometimes misplaced. In the spirit of ‘Another World is Possible’, social movements critical of the economic paradigm underpinning the global trading system call for a more bottom-up approach to the transformation of global trade.⁸⁶ In Chapter 10 of this book, for instance, Chimni calls for civil society and social movements to organize mass mobilizations and resistance. He argues that only this will compel national parliaments to resist pressures from powerful states and capitalist classes that marginalize the needs of vulnerable and poor groups within societies.

At present, calls for ‘strengthening’ the WTO seem to have greater traction with WTO member states than calls for ‘reform’. At the 2009 WTO Ministerial Conference, Member States articulated a number of priorities for strengthening the WTO, including greater fairness and efficiency in the WTO’s accession process; strengthening the WTO’s monitoring process; reinvigorating the functioning of the WTO’s regular committees; and improving the delivery of Aid for Trade (Deere Birkbeck and Cherneva 2010; WTO 2009a). Many WTO members also concurred on the need for processes – formal and informal - to discuss such proposals as well as the post-Doha agenda for the WTO (WTO 2009a).⁸⁷ While some reform advocates prefer to postpone such discussions for fear of distracting political attention from the Doha Round, others recommend that a systematic process of intergovernmental reflection could and should be delinked from the substantive agenda and day-to-day processes of the WTO. In Chapter 4, for instance, Meléndez-Ortiz and Biswas recommend that WTO Members create a standing body to review the functioning of the multilateral trading system, in effect institutionalising the process of thinking about the WTO’s functioning.⁸⁸ Chimni on the other hand, calls for national parliaments, civil society and social movements to be charged with sifting through various grievances against the WTO in terms of both process and outcome to determine which groups within the population are seriously hurt by the WTO’s Agreements and what can be done to address this.

⁸⁶ Amin (2010); Anderson (2000); Bello (2002a); Dunkley (2000); Rajakapol (2003); Raynolds et al (2007); and Rosset (2006).

⁸⁷ See, for instance, Dadush (2009); Deere Birkbeck (2009a); Draper (2010); WEF (2010).

⁸⁸ Some analysts focus on the roles that trade delegates could play in such reflection, while others emphasize the importance of leadership from political leaders and trade ministers. Still others promote a process that engages academics and/or stakeholders, either in a formal advisory capacity to the WTO members or that takes place completely outside the framework of the WTO.

To conclude, this book shows that there is a distinct set of developing country priorities for global trade governance reform. Top among these include calls for greater focus on the coherence of trade governance and broader global economic governance arrangements in terms of development-orientation; support for initiatives to boost South-South trade cooperation; and improved governance of Aid for Trade. While some priorities are shared with developed countries (such as the call for improvements in the WTO's monitoring function and for better management of the interaction between regional and multilateral trade regimes), developing country perspectives remain too neglected in the scholarly literature on global trade governance. The book highlights that the challenges of WTO participation for developing countries, particularly the smallest and poorest, and the fairness of trade negotiations processes are still top priorities that demand attention.

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