WTO Public Forum 2010
The Forces Shaping World Trade
Abstract

Moderator Mark Halle invited panellists to discuss and comment on the preliminary thoughts emerging from a project that he and panellist Robert Wolfe are conducting on accountability and the WTO, within the Swedish-funded ENTWINED consortium.

Participants were asked to help untangle the ideas behind some difficult questions: For what, and to whom, should the WTO be accountable? Through which mechanisms? What mechanisms already exist? Could the organization be more accountable and, if so, how?

The session examined whether the concept of accountability to the WTO should be applied on a broad or narrow basis, and discussed whom the WTO should be accountable to, including the wider global public.

Moderator

Mr Mark Halle, Executive Director, Trade and Investment, International Institute for Sustainable Development, Europe (IISD-Europe)

Speakers

Professor Robert Wolfe, School of International Studies, Queen's University, Canada

Professor Jens Steffek, University of Darmstadt, Germany

Mr Rashid S. Kaukab, Deputy Director and Research Coordinator, CUTS (Consumer Unity & Trust Society) Geneva Resource Centre

Professor Gabrielle Marceau, Counsellor, Legal Affairs Division, WTO

Organized by

International Institute for Sustainable Development (IISD)

Report written by

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Thursday, 16 September 2010 16.30-18.30
1. Presentations by the panellists

(a) Robert Wolfe, Queen’s University, Canada

Prof. Wolfe focused his presentation on an analysis of the G20’s commitment not to introduce new protectionist measures following the financial crisis. This involved an agreement by member states to notify the WTO of any new measures and encouraged international organizations to monitor and report on their performance.

He first asked if G20 members had been accountable. By and large, they had submitted notifications as agreed, and the WTO Secretariat played an important role in making the results broadly available. Where G20 members did not notify, the Secretariat had compiled information from other sources – press reports and civil society – which the countries in question were asked to verify.

He then described civil society’s role, focusing on the Global Trade Alert (GTA), an initiative that built up its own database of protectionist measures. Although the GTA was very critical of the G20, Prof. Wolfe argued that, on balance, the Secretariat’s compilation of measures was more comprehensive and covered more countries.

His analysis concluded that “the protectionist dog didn’t bark” and that countries had been accountable: the trading system’s institutions worked and the decision to embrace transparency had helped close the gap between country commitments and actions.

He closed by drawing a number of lessons from the experience. First, the special notification system can work, but the WTO Director-General should be more open about non-reporting countries. Second, the use of third-party data for non-reporting countries was interesting and could perhaps be used to improve notifications elsewhere. Third, the WTO, like the GTA, should have made data easily searchable online, to better promote accountability through increased transparency. Finally, civil society had been unable to compete with the WTO in gathering information. He suggested that civil society might be better placed to probe information gaps and offer alternative interpretations of reported data.

(b) Jens Steffek, University of Darmstadt, Germany

Prof. Steffek introduced the audience to the origin of the notion of accountability as we understand it today: the managerial revolution in public administration that started in the 1980s. He then explained how the concept migrated to international governance in the 1990s, where it took on two broad forms.

The first and strongest of these was legal accountability, when treaties set out rules and non-compliant participants could be sanctioned, as in the WTO. The second and weaker form was de facto accountability – recognition that multiple audiences existed who felt that they should be answered to. Closely related to this was “unsolicited accountability”, when people publicly challenged an agent or agency in order to hold it to account.

He emphasized that a difficult aspect of accountability in an international dimension was the idea that public organizations should be accountable for respecting procedures and not just achieving outcomes. This presupposes that tasks are clearly delegated from the
very beginning; however, many international organizations, such as the WTO, have broad mandates and face contradictory expectations from their members.

He suggested that the WTO’s mission should be broadly interpreted, including principles set out in the Preamble, such as sustainable development. This would make it accountable not just to members but also to non-state actors, international organizations and the wider public. Prof. Steffek argued that, in reality, the WTO is already responding to questions from a variety of stakeholders and tries to engage them within certain limits.

He concluded that accountability is not just a means of controlling and sanctioning. Rather, it is a learning exercise that takes place in a complex environment and requires organizational transparency and engagement with affected stakeholders.

(c) Rashid S. Kaukab, Deputy Director and Research Coordinator, CUTS Geneva Resource Centre

Mr Kaukab said his reflections were those of a practitioner and not a theoretician. He argued that the seemingly simple straight line relationship between the WTO and its members, and between those members and other stakeholders, is in fact fairly complex and currently includes many gaps. He gave examples, and asked the following questions:

1. Is there enough information available to accurately inform people’s perceptions of the WTO?
2. Is parliamentary oversight really working?
3. Is adequate public debate and scrutiny happening, even in developed countries?

He presented some findings from a CUTS project undertaken in five African countries, which looked at the role that stakeholders play in trade policy processes and WTO negotiations.

He concluded that the major task ahead for the WTO is to improve transparency, thus reducing perceptions based on lack of knowledge and empowering national stakeholders to hold their governments to account. He also criticized the current lack of a comprehensive accreditation process for NGOs within the WTO. He argued that there was justification for increased participation by non-state actors – not on an equal footing with members, but perhaps with observer status or parallel forums.

(d) Gabrielle Marceau, Counsellor, Legal Affairs Division, WTO

Prof. Marceau pointed out that she was speaking in a personal capacity. She emphasized that her immediate response was that yes, there should be a study on accountability and the WTO. In particular, she saw better accountability as vital to the WTO’s legitimacy and its ability to realize the positive impacts of trade. She noted, however, that one of the difficult dimensions of such analysis would be to assess the power of initiative in the organization: the WTO is member-driven and does not have a strong secretariat compared to other international organizations.

Nonetheless, there was evidence that the Secretariat had in fact introduced a number of innovations with regard to accountability, despite having few formal powers. These were:
1. the role of the Trade Policy Review Body (TPRB) in monitoring G20 countries’ notifications on stimulus measures;

2. the Aid for Trade initiative which, despite having weaknesses, remains significant, especially by working on standards for the impact assessment of trade measures;

3. the Secretariat’s de facto working relationships with almost 200 international organizations.

Commenting on some of the ideas that had been raised in the course of other presentations, she agreed that opening committees to non-state actors was a good idea, but suggested that in reality some things needed to be negotiated behind closed doors. Otherwise, the ultimate result may be that the real work simply “happens in restaurants”.

She also conceded that there was no formal accreditation process for NGOs with the WTO, but queried whether this would add value, as the building and facilities are already accessible. She noted that there were already effective ways for NGOs to engage with WTO processes, such as by sending an amicus curiae brief to dispute panels or to the Appellate Body.

She finished by suggesting two areas which it might be interesting to explore in more detail: first, the accountability of “the green room” – the small, restricted preparatory meetings – which could be better explained and reported on and might accommodate observers; and second, the potential for promoting cross-notification, the rule where one country can notify on behalf of a non-notifying country.

2. Questions and comments by the audience

Michael Hindley, former MEP and majority leader in the parliament on trade issues, expressed his distrust of the term stakeholder on the grounds that it hides differences in power between different groups. Prof. Steffek acknowledged these misgivings but argued that there was a lack of proper alternatives.

Sheila Page, of the Overseas Development Institute, expressed surprise that the WTO could perform better than the GTA, even on things that an outsider should be able to do well – identifying things that are not tariffs and hard to quantify and justify with a legal requirement. She also expressed her doubt that the term “accountability” could be usefully applied to “big speeches by ministers”, such as those promising benefits from the Doha Round.

Mats Hellström, a member of the Global Subsidies Initiative (GSI) High Level Advisory Group, noted that, as a result of the Lisbon Treaty, the European Parliament will be a part of trade decision-making. He speculated that this would lead to increased demand for transparency and assessments of policy impacts.

Ahmed Abdul-Latif of ICTSD argued that the accountability of the WTO Secretariat and WTO processes are two different things that need different approaches and indicators. He also pointed out that there is an asymmetry between developed and developing country members in their capacity to be transparent.
Bernard Hoekman of the World Bank questioned the extent to which the GTA had influenced the G20’s commitment to their promises. With respect to Aid for Trade, he argued that it is necessary to “walk on both feet” by looking at both the impact of development organizations and the impact of countries’ national trade policies.

Andre Misiekaba, MP from Surinam, argued that a decade and a half of the WTO had delivered a world with closed, non-transparent and unfair trade, a growing gap between rich and poor, and unmet engagement from developed countries. He asked whether this was the accountability the WTO needed to deliver. Prof. Wolfe welcomed his point and emphasized that the ENTWINED project would aim to think about how the WTO could be accountable for sustainable development. Prof. Marceau argued that this was a moral question and that neither the WTO nor any international forum had a responsibility for wealth distribution.

Bernard Colas, a trade lawyer from Canada, asked whether there should be greater focus on the impact evaluation of measures envisaged under WTO negotiations. Prof. Steffek responded that he was not against the idea but that there would be a large fight over who should carry out the evaluations — science is not a neutral arbiter, especially in economics.

3. Conclusions and way forward

Final comments from panel

Mr Kaukab concluded that transparency had come a long way since 1995 and congratulated the WTO and its Secretariat on their achievements to date – but emphasized that more efforts could be made.

Prof. Wolfe emphasized that the purpose of the ENTWINED project is to slice up who is supposed to be accountable, for whom, for what, by what processes and using what criteria. He suggested that it is not possible to prove causal relationships between the work being conducted by the WTO and civil society it is only possible to make arguments about what structures are likely to lead to which outcomes.

Prof. Marceau highlighted that assessing the impacts of trade is complex but positive, as it can inform what sort of supporting policies might be necessary to create to positive outcomes.

Prof. Steffek concluded that discussions such as these were exactly what was needed. He noted that some evaluations might get in the way of the WTO’s original mission, liberalization, but that this could be a good thing.

Moderator’s summary

Mr Halle concluded that panellists tended to favour a “broad” application of accountability, embracing particularly the principles in the Preamble to the WTO Agreement, and responsibility toward the people affected by its policies. Transparency was seen to be the primary tool for improving accountability, although other mechanisms were also identified, including: making information more accessible and easy-to-use; increasing the role of civil society in WTO processes; and potentially increasing the use of “cross-notification”, where the WTO Secretariat or third parties notify on behalf of non-compliant countries.
He added that he was struck by how far things have come. He recalled explanations from
when the WTO was set up that there was no place for NGOs in government business. He
also remembered the WTO's "Shrimp/Turtle" case, in which the WTO Secretariat rejected
an amicus curia brief from the WWF, now a routine part of dispute settlements.

He argued that often large steps forward have taken place when the Director-General
has had the courage to go slightly beyond his strictly defined role. From this, he concluded
that the WTO is not a system where the Secretariat is simply obedient to its members
– rather, it is an interaction between the two, as well as between different stakeholders.

He thanked everyone for their participation and for providing such useful input to the
ENTWINED project, assuring that the issue of accountability will not go away, but rather
become a great deal more central in the trade policy community.