

RESEARCH PAPERS

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UNITY IN DIVERSITY: GOVERNANCE ADAPTATION IN MULTILATERAL TRADE INSTITUTIONS THROUGH SOUTH-SOUTH COALITION-BUILDING

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SOUTH CENTRE

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EXECUTIVE SUMMARY

I. INTRODUCTION: RAPIDLY CHANGING GLOBAL ECONOMIC SCENE

The geo-political and economic map of the world is rapidly changing. A major aspect of this new context is the development of new international policy regimes, and the institutional architecture relating to these regimes, that have an impact on developing countries' development policies and prospects. These include a new institutional architecture on global trade policy represented by the World Trade Organization (WTO), complete with a more comprehensive set of trade rules that are binding on countries, and whose work both influences and is influenced by the work of other existing trade-related global institutions such as the UN Conference on Trade and Development (UNCTAD).

Another aspect of this new context is the increasing share and influence of developing countries in global economic affairs – both in terms of shaping global economic policy and in terms of actual weight in the global economy. The long-standing assertiveness of developing countries in seeking to influence policy discourse has become even more pronounced in recent years. This has been clearly evident in both the WTO and UNCTAD, especially since the start of the current decade. This assertiveness is based on the spectacular performance of many developing countries to grow their economies in recent years.

The current decade has seen a significant shift in the global economic environment. Developing countries as a group (including China and India) have achieved an average of 5-6 percent growth between 2002 and 2007, “although not all countries or segments of the population are beneficiaries of this growth...” In addition to the economic growth spurt experienced by developing countries as a whole, some large developing countries such as China and India are now “engines of growth for the world economy ... [and] the share of South-South trade is increasing in the world economy, making inter-South trade a veritable locomotive of growth.”

II. THE CONTINUING CHALLENGE OF THE WIDENING DEVELOPMENT GAP

But also very evident in this new context is the continued widening of the development gap (as measured in terms of income inequality) between developed and developing countries, in many respects, even as some developing countries are able to put their economies on a sustained growth path. The continued existence of global income inequality matters not only in terms of the long-term economic and social instability that it implies for the global community, but also because it affects how the global economic governance structures that exist function. As a UN report points out, “economic power and political power tend to be reinforcing. Also, in this sense, the rules governing global markets are likely to be less advantageous for developing countries, as these countries tend to have less of a voice in the negotiation processes leading to the establishment of those rules.”

Systemic global economic inequality looks set to continue in the medium- and long-term. There are many more developing countries that continue to languish at low levels of economic development, in Africa, South Asia and the Pacific, and Central and South America.

III. DEVELOPING COUNTRIES AND IMBALANCES IN PARTICIPATION IN GLOBAL ECONOMIC GOVERNANCE

Inequities in economic terms often reflect political inequities, and vice versa. The current global trading system exemplifies “some historical and structural inequities” in which the rules are “less advantageous for developing countries.” Changing the rules of the trading game to make them more equitable and capable of supporting developing countries’ development interests will require addressing the flaws in the institutional architecture which shapes and implements those rules. This means looking at how the institutions that form part of such architecture operate in terms of their ability to put in place rules that reflect and promote, in a pro-active manner, the needs of the disadvantaged in their constituency.

Cognizant of the difficulties and imbalances that they face in participating effectively and fully in various global economic institutions, developing countries have been consistently calling for governance reforms that would allow for their increased participation and representation in such institutions. Parallel to these initiatives, developing countries have also been active in establishing mechanisms designed to improve both their ability to cooperate and coordinate with each other in these international institutions and to bolster their substantive capacity to participate.

In all of these initiatives, developing countries have been consistent as well in stressing a clear development-oriented perspective in that development should be the main priority and focus for international cooperation and global action. These past few years of robust (although unequal) growth among many developing countries, especially among the big emerging economies of Brazil, India, China, and South Africa, have spurred an increasing sense of confidence, self-reliance, and optimism not only in terms of national prospects for development but also with respect to enhanced South-South cooperation and solidarity and the utility of working together in different institutions, such as the WTO.

Unfortunately, effective developing country participation in most of the international economic institutions, such as the World Bank, the International Monetary Fund (IMF), and the WTO, is often very much lacking. This problem of unequal levels of participation may, in fact, be deeply rooted in the very architecture of these institutions that reflect the power balance existing at the time that such institutions were created. While these institutions’ official mandates stress the promotion of the interests of the weaker members of their constituencies, it was often the case that the policy orientation, agenda, and organizational bias of the institution tended to favour the interests of some, mostly the more powerful, members over others and limited the ability of weaker members to effectively participate in both agenda-setting and decision-making.

A. DEVELOPING COUNTRY PARTICIPATION IN THE WORLD TRADE ORGANIZATION

1. Participation Issues in the WTO

Issues relating to internal WTO institutional governance processes have long been recognized by, and been placed on the agenda of, the WTO. This is due primarily to the fact that the institutional governance mechanisms and processes currently used in the WTO have led to problems of transparency, inclusiveness, participation, and efficiency in decision-making in the organization. In this connection, there are two (2) major issues that bear importantly on the ability of developing countries to participate effectively in the negotiations:

- (1) the decision-making process; and
- (2) the capacity to participate.

The difficulties faced by developing countries in the context of the WTO’s decision-making processes are now well-recognized as an institutional problem faced by the WTO. In addition to the process issue which affects the qualitative nature of individual developing country participation in

WTO decision-making, an associated issue is the participation capacity question – i.e. effective participation is also a function of the size and expertise of the Member's delegation in Geneva and the extent to which such delegation is provided with adequate and effective technical and policy support from their capital.

In sum, the WTO's institutional decision-making process, individual negotiating capacity limitations, and information asymmetries are, among others, constraints to the actual effectiveness and mode of participation by developing countries in the WTO's decision-making system. In response to these constraints, developing countries have increasingly turned to forming informal groupings or coalitions and to strengthening existing groupings with other developing countries. This response has been particularly evident since the launch of the WTO's Doha negotiations in late 2001. Developing country participation in the Doha negotiations now take place both directly – as individual Members – and indirectly – as members of various groups or coalitions. In the major negotiating issues of agriculture, NAMA, and trade facilitation, this trend is much more evident (the services negotiations, with its bilateral request-offer negotiating format, are not as conducive to group-based negotiations as the others).

2. Governance Adaptation by Developing Countries in the WTO: Coalition-Building in Pursuit of a Development Agenda

More than simply viewing the WTO as an international negotiating forum where trade concessions may be negotiated and exchanged, developing country coalitions now view the WTO as a negotiating forum in which the development implications of trade concessions will need to be considered as part and parcel of the philosophical moorings and values underlying the multilateral trading system. The G-20, the G-33, the NAMA-11, the Core Group on Trade Facilitation, the African Group, the ACP Group, the LDCs Group, the Small Vulnerable Economies Group, all have clearly and distinctly pegged their positions in the WTO to a clear ideational preference for linking negotiated concessions to their respective longer-term strategic development objectives and ideas. This developing country insistence on viewing the WTO as not merely a trade institution but as a development and trade institution has been clearly evident in all of the ministerial conferences since Seattle in 1999, and indeed was instrumental in ensuring that the mandate of the Doha negotiations is contextualized within a broader development discourse.

There has also been a distinct change in the negotiating dynamics among WTO Members. Developing countries have learned to work together in cohesive groups or coalitions based on their self-identified interests in a much better and more coordinated way as compared to, for example, the way in which they interacted prior to the Seattle Ministerial Conference in 1999. The development of more cohesive regional, cross-regional, common characteristic, and issue-based purely developing country groupings in the run-up to the 2003 Cancun Ministerial Conference was followed up by more consistent efforts on the part of these coalitions to work together more closely and in a more coordinated fashion both internally and with other groups.

The result has been a marked improvement in the extent of overall developing country participation in the WTO negotiations, albeit indirectly. And a stronger ability to influence WTO decision-making on the part of developing countries can be concluded from the fact that developing country issues now form part of the central negotiating agenda of the WTO.

B. DEVELOPING COUNTRY PARTICIPATION IN THE UN CONFERENCE ON TRADE AND DEVELOPMENT

1. Governance Adaptation in UNCTAD: The Role of the G-77 as the Primary Developing Country Coalition Actor

Group-based dynamics have had a long history in terms of UNCTAD's intergovernmental processes. Negotiations in the various UNCTAD conferences historically (at least until the late 1990s) were not carried out by individual countries but by groupings of countries acting together with a common platform and a main spokesperson.

Developing countries have historically participated in any negotiations – e.g. on international commodity agreements, the ministerial declaration of the UNCTAD conferences, etc. – through the vehicle of the Group of 77 and China's (G-77 and China) Geneva chapter. The members of this chapter include all the current 132 G-77 members, including China. The G-77 as an intergovernmental developing country coalition was formed on 15 June 1964 by seventy-seven developing countries that were signatories of the “Joint Declaration of the Seventy-Seven Countries” issued at the end of the first session of UNCTAD in Geneva. It originated from the “merger of Afro-Asian countries (Group A) and Latin American countries (Group C) for the purpose of UNCTAD negotiations.”

From its origins with the birth of UNCTAD, the G-77 has now become the premier intergovernmental developing country group working together within the UN system, being very active on most issues being discussed within the UN.

In some ways, the establishment of the G-77 in UNCTAD and their ability to generate and push cohesive and united negotiating positions was both the effect and cause of developed country actions. Developing countries in the early 1960s (especially from Africa and Asia) were becoming increasingly frustrated at the way in which developed countries were not responding favorably to their requests for increased levels of international cooperation to restructure global economic relations to promote the development of developing countries. As a result, they felt that only a united and cohesive front vis-à-vis developed countries could enhance their leverage and effect changes in terms of their economic relations with developed countries. During and after UNCTAD I, as the G-77 started operating and presenting cohesive and united group positions, developed countries started responding by also adopting joint negotiating positions that were previously discussed and coordinated through their organization, the Organisation for Economic Co-operation and Development (OECD).

As may be expected from a coalition the size of the G-77, with a membership of countries that have widely varying economic policies, development conditions, and economic and political ties to developed countries, a major aspect of the G-77 coordinators' job is to try to mediate and settle the differences among the G-77's members in order to arrive at a common position. These differences were of three main types, as an observer pointed out: “(1) those that are political and ideological in nature, (2) those between the more and the less advanced countries in the group, and (3) those resulting from the links of certain developing countries with certain developed ones.”

G-77 negotiating unity and cohesion during the 1970s and early 1980s were fostered to a large extent by their common agreement on the right of each state to determine its own development strategy on the basis of the unique cultural, social and other characteristics of each country. They argued that there is no one single universal model for development, no one-size-fits-all approach to development. But as more developing countries changed their economic policies to conform to the Washington Consensus model in order to try to adapt to and deal with the debt crisis of the early 1980s, UNCTAD began to decline in terms of relevance for both developed and developing countries alike. As a result coming into the 1990s, the G-77's internal cohesion and unity in UNCTAD started

to break apart. By the time of the 1992 Cartagena session of UNCTAD (UNCTAD VIII), the G-77 in UNCTAD was virtually moribund as a united and cohesive group.

However, by the end of the 1990s and the early 2000s, coming out of the various financial and developmental crises that adversely affected the development prospects of developing countries during the 1980s and 1990s, G-77 unity and cohesion in the UNCTAD context started recovering, spurred in part by the success of collective group action by developing countries in promoting a more development-focused trade agenda in the WTO. There was also an increasing recognition among developing countries that fundamental development challenges continue to remain which required developing countries to re-exert a collective effort to get their development partners to cooperate with developing countries to address these challenges effectively. The G-77's analysis and critique of the impacts of globalization and the role that the existing system of international institutions and policies play with respect to developing countries' development prospects also became clearer. This analysis and critique became the basis for a renewed interest in the recovery of the G-77 in UNCTAD as a major political actor in UNCTAD intergovernmental dynamics.

By the time of UNCTAD XI in Sao Paulo, Brazil, in June 2004, the G-77's preparatory process had become stronger, with the result that once again, UNCTAD negotiating dynamics became focused on inter-group dynamics involving the G-77 as the sole negotiating vehicle for developing countries. Since UNCTAD XI, G-77 unity in the UNCTAD context has further strengthened. The 2006 process for the UNCTAD XI Mid-Term Review of the implementation of the Sao Paulo Consensus saw a G-77 that was more pro-active and able to effectively table and articulate group negotiating positions.

IV. CONCLUSION: DEVELOPING COUNTRY GROUP ACTION AS AN ESSENTIAL COMPONENT IN GLOBAL TRADE GOVERNANCE

As can be seen from the discussion above, the ways in which developing countries participate in the governance of the WTO and UNCTAD, the two premier multilateral trade governance institutions, reflect their adaptation to perceived and real imbalances of economic and political power, both in terms of the bigger international economic system as well as with respect to the institutional governance mechanisms of these organizations.

Further enhancing developing country participation and influence in global trade policy-making and governance will require the following:

- **Clear policy issue and agenda articulation** – Strong group action can only take place on the basis of a shared perception by the group members of having shared issues and a shared agenda that they are committed to and which they are willing to promote. This shared understanding is important, especially in terms of continuously updating, fine-tuning and articulating a clear policy framework, a set of well-articulated policy objectives, and a clearly defined action agenda, that can be promoted in both institutional contexts. This represents an essential foundation and reference point for collective developing country group action in both the WTO and UNCTAD. This is a vital step in trying to overcome the intellectual and conceptual dependence vis-à-vis the North in which the developing countries have been entrapped. Today, the South faces the challenge of “intellectual liberation”, which has to be undertaken collectively, as a serious, systematic and sustained effort by developing countries.
- **Coordination and leadership** – Strong groups in both the WTO and UNCTAD show that having institutionalised coordination and group leadership mechanisms are vital to the long-term survival of the group.
- **Working relationships** – Given the relatively greater role that human resource constraints play in determining the extent of developing country participation, the working relationships that individual delegates have with other developing country delegates in the context of group

dynamics become very important factors in ensuring smooth intra- and inter-group coordination and action.

- **Having institutional support** -- Full and continuous institutional support of the highest professional quality is essential for any multilateral endeavour, especially in a multilateral setting such as the WTO and UNCTAD, where developing countries are confronted with a complex, overlapping and interrelated agenda. This continues to be one of the weakest links in strengthening collective group action by developing countries. Creating, financing, staffing and running such an institution presents a number of problems that have earlier frustrated proposals of this kind.

The underlying policy rationale which inspired the formation of the G-77 in UNCTAD in 1964 has essentially remained unchanged, and has been reconfirmed by events and developments during the last 40 years, especially during the last decade or so in both the WTO and UNCTAD. Indeed, today the need for collective and group action by developing countries is greater and more urgent than ever, for a number of reasons, including:

- The greater weight and importance of the world economy, and the related processes, for their national development and in general their economic policy and environmental space and sovereignty;
- The increasing complexity and scope of the development process, which no longer allows for sectoral and narrow approaches, and the multiplication of issues and challenges that concern all countries;
- The continued efforts by developed countries to dominate multilateral processes, institutions and outcomes, and, via these, the developing countries, their political and economic space, and their natural resources and endowments.

The experience of developing countries, individually and collectively, during the more recent period of globalization has only confirmed that developing countries need to be consistent and united in promoting their views and interests, and that to succeed it is also essential for them to join forces and pursue group action in most domains on the development agenda, including in the trade area. In a world which is becoming increasingly interconnected and interrelated, and with a number of developing countries having made important progress and strides in development and economic growth, the collective weight of the South that can be mobilized today is significant and should be put to good use, both for launching major policy initiatives, as well as to counter the systemic economic and political imbalances that continue to exist in favor of developed countries.

I. INTRODUCTION

The geo-political and economic map of the world is rapidly changing. Global institutional arrangements borne out of the historical experiences of the mid- to late 20th century will need to adjust to the new global political and economic context that is now evolving, even as the post-World War II issue of promoting the development of developing countries¹ continues to remain at the centre of international economic policy debates.

A major aspect of this new context is the development of new international policy regimes, and the institutional architecture relating to these regimes, that have an impact on developing countries' development policies and prospects. These include a new institutional architecture on global trade policy represented by the World Trade Organization (WTO), complete with a more comprehensive set of trade rules that are binding on countries, and whose work both influences and is influenced by the work of other existing trade-related global institutions such as the UN Conference on Trade and Development (UNCTAD).

Another aspect of this new context is the increasing share and influence of developing countries in global economic affairs – both in terms of shaping global economic policy and in terms of actual weight in the global economy. While global economic policy-making continues to date to be largely shaped by the institutions that were set up after World War II such as the Bretton Woods institutions and by individual developed countries and their collective institutions (such as the G-8), the long-standing assertiveness of developing countries in seeking to influence policy discourse has become even more pronounced in recent years. This has been clearly evident in both the WTO and UNCTAD, especially since the start of the current decade.

Finally, also very evident in this new context is the continued widening of the development gap (as measured in terms of income inequality) between developed and developing countries, in many respects, even as some developing countries are able to put their economies on a sustained growth path.

¹ For the purposes of this paper, the phrase “developed countries” refers to States which are Member States of the Organization for Economic Cooperation and Development (OECD) or the European Union (EU). “Developing countries” refers to those States which are members of the Group of 77, and may be used interchangeably with the term “South.” States which do not fall in either category would be the “economies in transition”, composed mostly of the non-EU Member States of Eastern Europe and the successor States of the former USSR.

II. ECONOMIC INEQUITY IN THE CONTINUED WIDENING OF THE NORTH-SOUTH DEVELOPMENT GAP

Achieving development in the context of a globalized and rapidly integrating international system continues to be the prime imperative for developing countries. Achieving this imperative, however, has been a challenging global task. Some development successes after the Second World War have been noteworthy, such as the post-war rebuilding of the economies of Western Europe and Japan in the 1950s and 1960s and the development of Korea and Singapore in the 1970s. The current emergence of fast-growing agro-industrial developing country economies in Asia (such as Malaysia, China, and India), Africa (especially South Africa), and Latin America (in particular Brazil, Argentina and Chile) is now taking place under international conditions and circumstances that are different from that of the post-World War II period up to the 1990s. Their formulas for development were many and varied – with most choosing to use home-grown development strategies that first sought to develop strong domestic industrial and agricultural sectors through a variety of means coupled with increasing levels of internationally competitive global trade and investment integration as their economies developed.

The current decade has seen a significant shift in the global economic environment. Developing countries as a group (including China and India) have achieved an average of 5-6 percent growth between 2002 and 2007, “although not all countries or segments of the population are beneficiaries of this growth...”² In addition to the economic growth spurt experienced by developing countries as a whole, some large developing countries such as China and India are now “engines of growth for the world economy ... [and] the share of South-South trade is increasing in the world economy, making inter-South trade a veritable locomotive of growth.”³ UNCTAD now suggests that

A “second generation” of globalization is thus emerging. A distinctive characteristic of this phase of globalization is economic multipolarity, in which the South plays a distinctive role. Today, no negotiation of an international economic agreement is conceivable without the presence of China, India, Brazil and South Africa at the table. The new economic weight of some developing countries creates significant opportunities for the rest of the developing world. It also highlights the need for policy diversity rather than uniformity.⁴

The increasing economic share of developing countries in the global economy has been an integral part of the global economic recovery that has taken place since 2001, stimulated to a large extent by the rapid increase of exports from developing countries.⁵ The fast-growing

² UNCTAD, Report of the Secretary-General of UNCTAD to UNCTAD XII – Globalization for development: Opportunities and challenges (TD/413, 4 July 2007), para. 7. (hereafter UNCTAD XII SG Report).

³ *Id.*, para. 8. South-South trade in goods is estimated to have increased from US\$577 billion in 1995 to US\$1.7 trillion in 2005, resulting in a rise of the South-South share of global trade in goods from 11 percent in 1995 to 15 percent in 2005. Overall, the share of developing countries in global trade has increased from 29 percent in 1996 to 34 percent in 2006. See *id.*, paras. 15-16.

⁴ *Id.*, para. 9.

⁵ Developing country exports “nearly tripled between 1996 and 2006, whereas those from the G-7 only rose by some 75 percent. In this area, Asia clearly dominated the picture, with transition economies and Latin America coming in second, and Africa showing exactly the same increase as the G-7.” Asia’s imports rose by 170 percent in the same time, while those of transition economies rose by 150 percent. *Id.*, para. 15.

economies of China, India, Brazil, South Africa, and other developing countries have also helped create new trade opportunities for both developed and developing countries, especially in terms of increased demand in these growing economies for primary commodities and intermediary inputs.⁶

Developing country growth over the past five years was fuelled by a variety of stimulants to economic growth. These include currently favourable terms of trade for developing countries (as a result of cheaper and more competitive exports), while commodity price hikes⁷ over the past five years have also helped improve the terms of trade of commodity-producing and -exporting developing countries⁸ (especially those which produce and export mineral commodities such as coal and oil, although the prices of other primary commodities, especially tropical agricultural commodities, have not improved as much). Improved external trade performance has brought developing countries overall into a capital current accounts surplus while developed countries (in large part due to the huge current account deficit of the United States) are in deficit.⁹ Manufacturing and trade capacity expansion in many developing countries was supported by increased levels of inward investments into their economies,¹⁰ as investors search for yields higher than what could be provided in the developed economies.¹¹

Both the United Nations and the World Bank project continued global economic growth, albeit at a slower rate, over the short-term largely as a result of the continued expansion of developing country economies.¹²

However, systemic global economic inequality looks set to continue in the medium- and long-term. There are many more developing countries that languish at low levels of economic development, in Africa, South Asia and the Pacific, and Central and South America.

⁶ See e.g. TDR 2006, at 1.

⁷ According to UNCTAD, “there has been an upward trend since 2002 due to increasing demand - mainly in China and India - and to speculation on commodity markets” although “there are now signs that this increase might be losing pace owing to slower economic growth, the withdrawal of speculative hedge funds and changes in stocking strategies, in particular for metals.” However, one should note that recent commodity price increases do not reflect the long-term trend of commodity prices, which have been declining in real terms. Current overall commodity prices are approximately one-third less than what they were on average during the period from 1975-1985. See UNCTAD, at <http://www.unctad.org/Templates/Page.asp?intItemID=3732&lang=1>.

⁸ UNCTAD XII SG Report, para. 21.

⁹ *Id.*, para. 17.

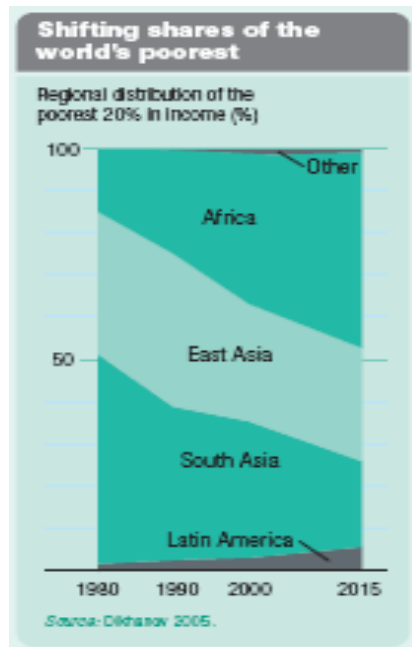
¹⁰ *Id.*, para. 22.

¹¹ However, it should be noted that while global foreign direct investment (FDI) inflows may have grown by 29% from 2004 to over US\$916 billion in 2005, much of those inflows were largely the result of a significant increase in the value and number of cross-border corporate mergers and acquisitions (M&As) – especially in developed countries – and of increased investments by collective investment funds (e.g. private equity and hedge funds) looking for higher yields. These kinds of investment flows might not be sustainable in the long run and might not necessarily translate into developmental benefits for developing countries. Inward FDI into developing countries rose to US\$334 billion in 2005 (as compared to FDI inflows of US\$542 billion into developed countries), with East and Southeast Asia continuing to be the main developing country FDI recipients. See e.g. UNCTAD, *World Investment Report 2006: FDI from Developing and Transition Economies: Implications for Development* (2006), pp. 3-5. (hereafter WIR 2006)

¹² TDR 2006, at 1-3; GEP 2007, at 1; see also UN DESA, *World Economic Situation and Prospects 2007* (2007), pp. 1-10 (hereafter WESP 2007).

The UNDP has pointed out that on 2000 to 2005 growth trends, “it will still take India until 2106 to catch up with high-income countries. For other countries and regions convergence prospects are even more limited. Were high-income countries to stop growing today and Latin America and Sub-Saharan Africa to continue on their current growth trajectories, it would take Latin America until 2177 and Africa until 2236 to catch up.”¹³ In fact, except for some Asian developing countries, most other developing countries are falling

Figure 1



Source: HDR 2005, p. 35.

behind, rather than catching up, with developed countries in terms of income growth, with Africa's share of the income poor projected to increase (see Figure 1).¹⁴

Unsatisfactory fulfilment of the development imperative becomes even clearer when one looks at the increasing development gap between the developed and developing countries (as measured in terms of income inequality) between developed and developing countries.

While income levels have risen steadily in developed countries over the past half-century, they have not done so as steadily in most developing countries especially over the past twenty-five years.¹⁵ Leaving out China's and India's (together accounting for almost half of the global population) exemplary progress in increasing their people's incomes reveals a picture in which global income inequality is in fact increasing (see Figure 2 below).¹⁶

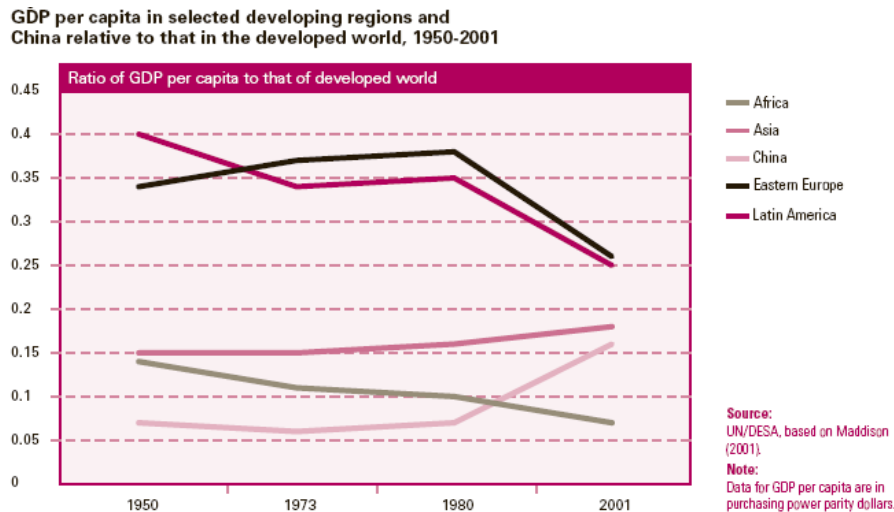
¹³ UNDP, Human Development Report 2005: International cooperation at a crossroads – aid, trade and security in an unequal world (2005), p. 37. (hereafter HDR 2005).

¹⁴ Id. See also GEP 2007, at 42, where the World Bank projects that “[t]here would be a further falling behind in Sub-Saharan Africa with its modest per capita growth below the high-income average, and Latin America would see little if any convergence on average.”

¹⁵ UN DESA, World Economic and Social Survey 2006: Diverging Growth and Development (2006), p. 1 (hereafter WESS 2006).

¹⁶ Id.

Figure 2



Source: WESS 2006, p. 1

Income convergence, taken here as a proxy for development convergence, between developed and developing countries has not, other than for a few developing countries, largely taken place. The efforts of many developing countries over the 1980s and 1990s to integrate into the international market-based economic system by liberalizing their trade, financial, and investment policy regimes did not result in the hoped-for and promised economic growth.

These policy changes were prompted in many instances, especially in developing countries with IMF or World Bank programmes or loan packages, by a pronounced policy bias in the policy recommendations put forward by these institutions and other development agencies as economic reform packages.¹⁷

By the late 1990s and early 2000s, the failure of neoliberal macro-economic reform policy packages to bring about developmental benefits in developing countries became more and more recognized at the policy level. In the words of an UNCTAD report, these BWI-fostered economic reform packages were

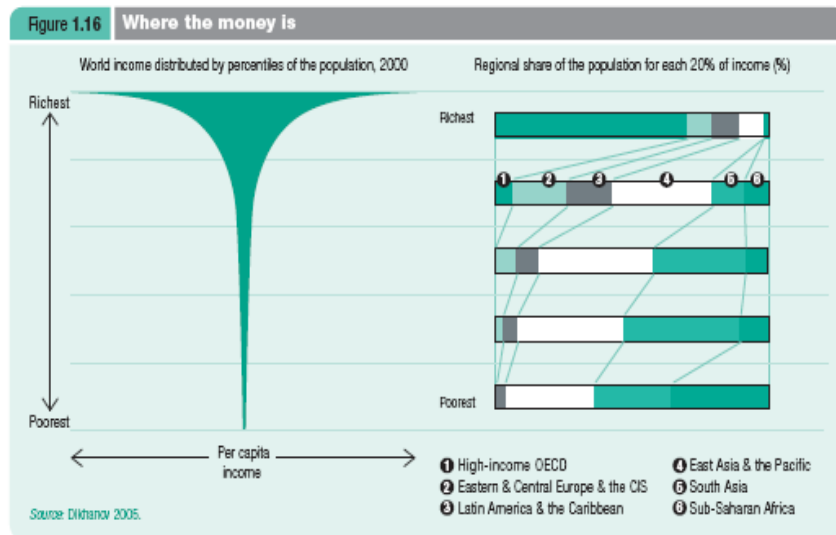
accompanied by low rates of investment and deindustrialization, often with negative social consequences. The fast pace of trade liberalization caused trade deficits associated with any given rate of growth to become larger, adding to payments difficulties and increasing dependence on capital inflows. And efforts to attract capital inflows involved raising interest rates – which hindered domestic investment and slowed growth – and currency appreciation, which compromised the international competitiveness of domestic producers and adversely affected trade performance. In most countries of Africa and Latin America, capital accumulation did not keep pace with the increased need for productivity enhancement and technological innovation, which are basic requirements for the success of export-oriented development strategies. Moreover, although liberalization and deregulation may have generated efficiency gains, these gains did not automatically translate into faster income growth. Instead, they often led to growing inequality. Policies

¹⁷ See e.g. UNCTAD, Trade and Development Report 2006: Global partnership and national policies for development (2006), pp. 42-45 (hereafter TDR 2006), for an account of the role of the BWIs in developing and promoting the economic policy orthodoxy of the 1980s and 1990s.

promoted with a view to getting relative prices “right” at the micro level failed, because in too many cases they got prices “wrong” at the macro level.¹⁸

The meagre development impact of such economic reform packages adopted by many developing countries is in stark contrast to the more positive and sustained development results of some other developing countries who had “tended to be rather cautious in pursuing trade and financial reforms,”¹⁹ notably East Asian countries such as China, South Korea, Taiwan Province of China, and Malaysia which pursued “a high level of capital accumulation combined with gradual and often strategic opening up to international markets.”²⁰ (see Figure 3)

Figure 3



Source: UNDP, Human Development Report 2005, p. 37.

A major part of the problem is that income inequality between countries remains extremely high and whatever income convergence with developed countries might take place will likely be concentrated in only some developing countries rather than be broad-based across all developing countries.²¹ Even when developing countries have higher growth rates, the absolute income gap with developed countries on a per capita PPP basis will continue to increase “precisely because the initial income gaps are so large ... If average incomes grow by 3% in Sub-Saharan Africa and in high-income Europe, for example, the absolute change will be an extra \$51 per person in Africa and an extra \$854 per person in Europe” (see Figure 4).²²

The recognition that the development gap was not shrinking led to global initiatives in the early 2000s intended to focus global attention on the need to address the development gap.

¹⁸ *Id.*, at IV-V.

¹⁹ WESS 2006, at 1.

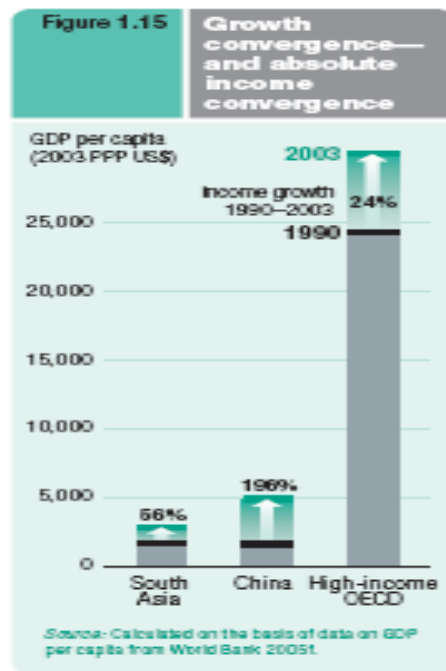
²⁰ TDR 2006, at V.

²¹ The pattern of income convergence as a result of growth, according to the UN, seems to be that convergence occurs at the extremes of the income spectrum, where incomes among richer countries tend to converge upwards while incomes among poor countries tend to converge downwards, resulting in greater income disparities between the two groups. See WESS 2006, at 15.

²² HDR 2005, at 37.

For example, the UN Millennium Summit of 2000 articulated the Millennium Development Goals (MDGs) to be achieved by 2015²³ (although it should be noted that the MDGs are not aimed at closing the development gap but rather at achieving a minimum “development” target). The 2002 International Conference on Financing for Development²⁴ and the 2002 World Summit on Sustainable Development²⁵ both put forward ideas on how the international policy regime and architecture could be put to use to support development and achieve the MDGs. The 2001 Doha Ministerial Declaration of the WTO sought to place the “needs and interests” of developing countries “at the heart” of the Doha trade negotiations.²⁶ The 2001 and 2004 sessions of UNCTAD both highlighted the need for more work to be done in terms of enhancing the development prospects of developing countries through a more balanced approach to international economic policymaking.²⁷

Figure 4



Source: HDR 2005, at 37

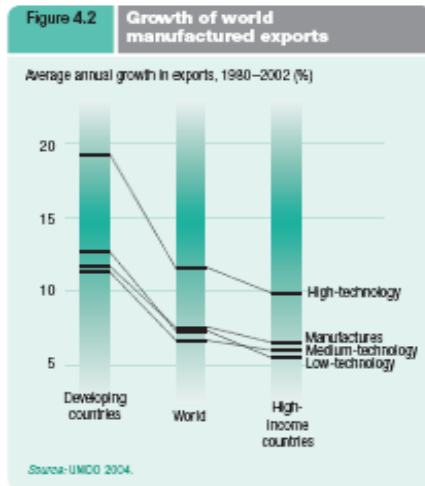
²³ See e.g. <http://www.un.org/millenniumgoals/index.html>, and UN, General Assembly – Millennium Declaration (A/RES/55/2, 18 September 2000). (hereafter Millennium Declaration)

²⁴ See UN, Report of the International Conference on Financing for Development (A/CONF.198/11, 22 March 2002). (hereafter Monterrey Consensus)

²⁵ See UN, Report of the World Summit on Sustainable Development (A/CONF.199/20, 4 September 2002). (hereafter WSSD)

²⁶ WTO, Ministerial Declaration (WT/MIN(01)/DEC/1, 20 November 2001), para. 2. (hereafter Doha Ministerial Declaration)

²⁷ See UNCTAD, Bangkok Plan of Action, (TD/386, 18 February 2000); UNCTAD, Bangkok Declaration: Global Dialogue and Dynamic Engagement (TD/387, 18 February 2000); UNCTAD, Sao Paulo Consensus (TD/410, 25 June 2004); UNCTAD, UNCTAD XI – The Spirit of Sao Paulo (TD/L.382, 25 June 2004).

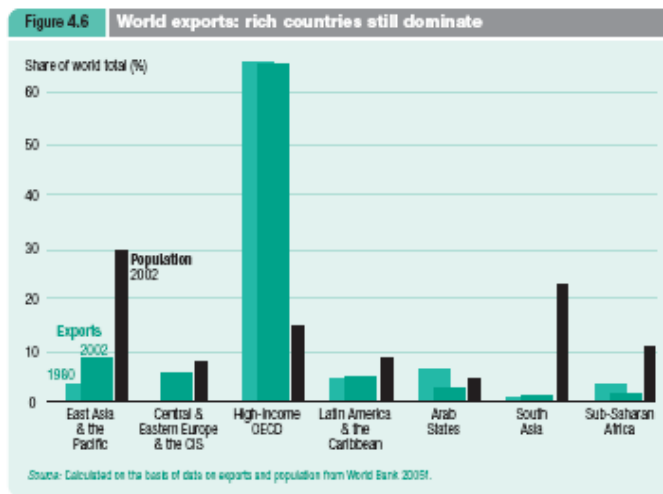
Figure 5

Source: HDR 2005, at 115

As pointed out above, improved terms of trade – especially in commodities – in recent years on favour of developing countries have contributed towards the significant growth that many developing countries have experienced. But the question of whether such positive terms of trade are sustainable and provide real developmental impacts remains to be answered. In fact, the result of the rapid pace of developing countries’ integration into the global economy as a result of the increase in trade flows may have “exacerbated the divergence in growth performance among countries,”²⁸ as East Asian countries that have managed to diversify their economies grow and gain benefits from trade faster and more than other developing countries whose exports consist mostly of less value added products (such as primary commodities) with decreasing global market shares and more trade and price volatility (see Figure 5).²⁹

In developmental terms, what countries export matters just as much as how much they export.³⁰ Given the premium in terms of trade that exports in high value added goods provides and the edge that developed countries have in producing such goods, developed countries continue to gain the most from current trade flows (see Figure 6).

Even recent econometric projections of income gains from trade (on the basis of possible likely scenarios) indicate that such gains are likely to be modest at best and would show a wide disparity in the distribution of such gains between countries. Some projections based on computable general equilibrium (CGE) trade models suggest that such income gains, especially for developing countries, might in fact be negligible (e.g. estimates of income gains of “less than \$1 per person *per year*, less than a quarter of a penny per person per day” in developing countries as

Figure 6

Source: HDR 2005, at 118

²⁸ WESS 2006, at ix.

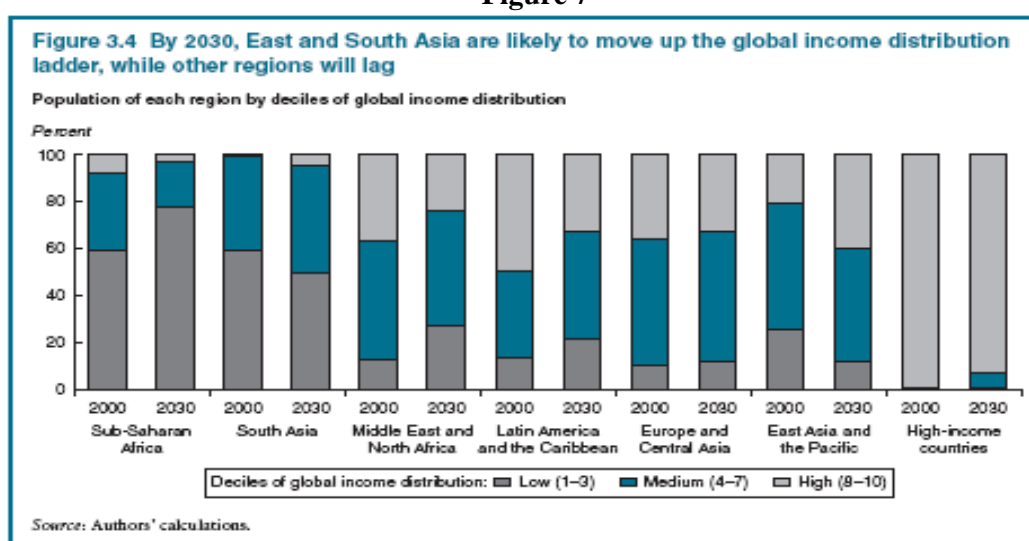
²⁹ Id., at ix-x. According to the UN, “faster overall economic growth driven by trade is associated with more dynamic export structures ... that allows countries to not only participate in world markets for products with greater growth potential (most often high-tech products with a high income elasticity of demand) but also help strengthen productive links with the rest of the domestic economy and generate increased value added for a wider range of services and products.” Id. See also HDR 2005, at 116-118, which points out that “success in world trade depends increasingly on entry into higher value-added markets for manufactured goods. Most of the increase in developing world market share in manufactured goods can be traced to one region—East Asia—and to a small cluster of countries...”

³⁰ WESS 2006, at ix-x.

compared to “more than \$.06 per person per day” – or US\$23 per person per year – in developed countries).³¹ Additionally, the projected distribution of such income gains from trade tends to be skewed in favour of developed countries mostly, and the gains for developing countries tend to be concentrated in a few countries mostly in East and Southeast Asia and the bigger Latin American countries such as Brazil and Argentina, with sub-Saharan Africa, least-developed countries, and many other developing countries in Asia and Latin America being shown as net losers from trade.³²

Hence, even during a period the overall global economy is in a positive condition and some developing countries are becoming major global economic and political actors, the global development challenge remains, even more so now that it ever was, which is the sustainable and equitable reduction of global income inequality (as a proxy for development) between developed and developing countries, and improve the ability of most developing countries outside of Asia to improve their development pace (see Figure 7).

Figure 7



Source: GEP 2007, at 79

³¹ Frank Ackerman, The Shrinking Gains from Trade: A Critical Assessment of Doha Round Projections (Tufts University Global Development and Environment Institute Working Paper 05-01, October 2005), p. 9. Available at <http://ase.tufts.edu/gdae/Pubs/wp/05-01ShrinkingGains.pdf>. Even World Bank projections on income gains from trade liberalization, on the basis of a 75 percent cut in tariffs and domestic support in all countries by 2025, indicate that such “income gains, which include the positive effects of trade openness on productivity, are quite modest: average per capital income (in PPP terms) in the final year rises by 7 percent relative to the baseline.” See GEP 2007, at 91.

³² See e.g. Sandra Polaski, *Winners and Losers: Impact of the Doha Round on Developing Countries* (2006). Available at <http://www.carnegieendowment.org/files/Winners.Losers.final2.pdf>. See also Frank Ackerman, *The Shrinking Gains from Trade: A Critical Assessment of Doha Round Projections* (Tufts University Global Development and Environment Institute Working Paper 05-01, October 2005). Available at <http://ase.tufts.edu/gdae/Pubs/wp/05-01ShrinkingGains.pdf>.

This state of global economic affairs is clearly reflected in the promise in the WTO's Doha Ministerial Declaration that developing countries' development needs and interests would be "at the heart"³³ of the multilateral trade negotiations launched at Doha. Even the UNCTAD XI's Sao Paulo Consensus clearly stressed that "the benefits and costs of globalization are very unevenly distributed" with many countries remaining marginalized.³⁴

However, the difficulties that are being experienced in the WTO negotiations reflect wide divergences of perspectives among WTO Members on how such development needs and interests should be reflected,³⁵ just as much as the intense debate among UNCTAD Member States during both UNCTAD XI in Sao Paulo in 2004 and the Mid-Term Review of UNCTAD XI in Geneva in 2006 over the issue of "policy space" reflected wide divergences over how the growing income and development gap between developed and developing countries should be addressed at the multilateral level.

The continued existence of global income inequality matters not only in terms of the long-term economic and social instability that it implies for the global community, but also because it affects how the global economic governance structures that exist function. As a UN report points out, "economic power and political power tend to be reinforcing. Also, in this sense, the rules governing global markets are likely to be less advantageous for developing countries, as these countries tend to have less of a voice in the negotiation processes leading to the establishment of those rules."³⁶

³³ Doha Ministerial Declaration, para. 2.

³⁴ Sao Paulo Consensus, para. 1. See also Millennium Declaration, para. 5.

³⁵ As of this writing (January 2008), the WTO negotiations are currently at an impasse with negotiations blocked in the agriculture, non-agricultural market access, and trade in services negotiations. See WESP 2007, at 49-52 for a discussion of the state of play of the WTO Doha negotiations. See also the WTO website at http://www.wto.org/english/tratop_e/dda_e/dda_e.htm for latest news on the progress of the negotiations.

³⁶ WESS 2006, at 2.

III. GOVERNANCE INEQUITY IN THE MULTILATERAL TRADE INSTITUTIONS

Inequities in economic terms often reflect political inequities, and vice versa. The current global trading system exemplifies “some historical and structural inequities”³⁷ in which the rules are “less advantageous for developing countries” as the 2005 UN Human Development Report states:

The rules of the game are at the heart of the problem. Developed country governments seldom waste an opportunity to emphasize the virtues of open markets, level playing fields and free trade, especially in their prescriptions for poor countries. Yet the same governments maintain a formidable array of protectionist barriers against developing countries. They also spend billions of dollars on agricultural subsidies. Such policies skew the benefits of globalization in favour of rich countries, while denying millions of people in developing countries a chance to share in the benefits of trade. Hypocrisy and double standards are not strong foundations for a rules-based multilateral system geared towards human development³⁸

Changing the rules of the trading game to make them more equitable and capable of supporting developing countries’ development interests will require addressing the flaws in the institutional architecture which shapes and implements those rules. This means looking at how the institutions that form part of such architecture operate in terms of their ability to put in place rules that reflect and promote, in a pro-active manner, the needs of the disadvantaged in their constituency.

A. DEVELOPING COUNTRY PERCEPTIONS ON PARTICIPATION IN GLOBAL ECONOMIC GOVERNANCE INSTITUTIONS

Global governance institutions are important as vehicles through which global policy-setting and implementation take place. The legitimacy, credibility, and acceptability of multilateral rules and disciplines that effectively function as voluntary limitations to national sovereignty depends on the existence within these institutions of deliberative processes “based on full, equal and voluntary participation of all the parties concerned.”³⁹

Cognizant of the difficulties and imbalances that they face in participating effectively and fully in various global economic institutions, developing countries have been consistently calling for governance reforms that would allow for their increased participation and representation in such institutions. These calls have been made in the context of, for example, the World Bank and the International Monetary Fund vis-à-vis voice and quota reforms, the UN Security Council with respect to its permanent membership, international financial institutions such as the Bank of International Settlements (BIS), international standards-setting organizations such as the Codex Alimentarius and the International Standards Organization (ISO), and in the WTO itself.

³⁷ See UNDP, *Making Global Trade Work for People* (2003), p. 49. (hereafter UNDP).

³⁸ HDR 2005, at 113. See also the related discussion in HDR 2005, at 126-146; and TDR 2006, at 219-223.

³⁹ TDR 2006, at 218.

Parallel to these initiatives, developing countries have also been active in establishing mechanisms designed to improve both their ability to cooperate and coordinate with each other in these international institutions and to bolster their substantive capacity to participate. These include the long-standing institutions such as the Group of 77 (mostly focused on economic and political issues), the Non-Aligned Movement (mostly on security, political and human rights issues), the Group of 24 (focusing on finance issues); the establishment of domestic non-governmental and intergovernmental think tanks (such as the Research and Information System (RIS) in India, the South African Institute for International Affairs (SAIIA) in South Africa, the South Centre in Geneva); the creation of South-South high-level political and economic arrangements such as the Group of 15, the India-Brazil-South Africa (IBSA) Forum; strengthening their regional integration mechanisms, such as ASEAN, SADC, Mercosur, etc.; and engaging in group-based action in negotiating forums (such as in the WTO).

In all of these initiatives, developing countries have been consistent as well in stressing a clear development-oriented perspective in that development should be the main priority and focus for international cooperation and global action. These past few years of robust (although unequal) growth among many developing countries, especially among the big emerging economies of Brazil, India, China, and South Africa, have spurred an increasing sense of confidence, self-reliance, and optimism not only in terms of national prospects for development but also with respect to enhanced South-South cooperation and solidarity and the utility of working together in different institutions, such as the WTO.

Unfortunately, effective developing country participation in most of the international economic institutions, such as the World Bank, the International Monetary Fund (IMF), and the WTO, is often very much lacking. This is an institutional global governance problem that has been consistently pointed out by developing countries,⁴⁰ especially with respect to the World Bank and the IMF,⁴¹ the WTO,⁴² the United Nations,⁴³ as well as with respect to international standards setting⁴⁴.

This problem of unequal levels of participation may, in fact, be deeply rooted in the very architecture of these institutions that reflect the power balance existing at the time that such institutions were created.⁴⁵ While these institutions' official mandates stress the

⁴⁰ See e.g. G-77 Doha Declaration of the Second South Summit (G77/SS/2005/1, 15 June 2005), para. 10. Available at [http://www.g77.org/southsummit2/doc/Doha%20Declaration\(English\).pdf](http://www.g77.org/southsummit2/doc/Doha%20Declaration(English).pdf)

⁴¹ See e.g. G-24 Communique (April 2007), paras. 3-9. Available at <http://www.imf.org/external/np/cm/2007/041307.htm>; G-77 Final Communique of the 41st Meeting of the Chairmen/Coordinators of the G-77 Chapters (February 2007), para. 12. Available at <http://www.g77.org/chmeeting/0702/communique.php>; G-77 Special Ministerial Statement (May 2006), para. 14. Available at <http://www.g77.org/doc/putrajaya.htm>; G-77 Ministerial Statement (September 2006), para. 6. Available at <http://www.g77.org/ammfa/30/conclusion.html>

⁴² See e.g. G-77 Special Ministerial Statement (May 2006), para. 14. Available at <http://www.g77.org/doc/putrajaya.htm>; G-77 Doha Declaration of the Second South Summit (G77/SS/2005/1, 15 June 2005), para. 15(xv). Available at [http://www.g77.org/southsummit2/doc/Doha%20Declaration\(English\).pdf](http://www.g77.org/southsummit2/doc/Doha%20Declaration(English).pdf)

⁴³ See e.g. G-77 Final Communique of the 41st Meeting of the Chairmen/Coordinators of the G-77 Chapters (February 2007), para. 8. Available at <http://www.g77.org/chmeeting/0702/communique.php>; G-77 Doha Declaration of the Second South Summit (G77/SS/2005/1, 15 June 2005), para. 22. Available at [http://www.g77.org/southsummit2/doc/Doha%20Declaration\(English\).pdf](http://www.g77.org/southsummit2/doc/Doha%20Declaration(English).pdf)

⁴⁴ See e.g. G-77 Doha Declaration of the Second South Summit (G77/SS/2005/1, 15 June 2005), para. 15(ix). Available at [http://www.g77.org/southsummit2/doc/Doha%20Declaration\(English\).pdf](http://www.g77.org/southsummit2/doc/Doha%20Declaration(English).pdf)

⁴⁵ As some authors have pointed out: “[l]ong-standing institutions represent frozen configurations of privilege and bias that can continue to shape the future choices of actors” within that institution. See Michael Barnett and Raymond Duvall, *Power in International Politics*, in *59 International Organization* 39-75 (Winter 2005), at 52. (hereafter Barnett and Duvall). In this article, the authors defined “power”

promotion of the interests of the weaker members of their constituencies, it was often the case that the policy orientation, agenda, and organizational bias of the institution tended to favour the interests of some, mostly the more powerful, members over others and limited the ability of weaker members to effectively participate in both agenda-setting and decision-making.⁴⁶

Most recent international declarations have in fact also been pointed out this problem of unequal participation – especially with respect to economic decision-making institutions. For example, the 2000 UN Millennium Declaration stressed that international policies and measures “which correspond to the needs of developing countries and economies in transition” should be “formulated and implemented with their effective participation.”⁴⁷ The 2002 Monterrey Consensus, in various paragraphs, stressed the importance of ensuring and enhancing meaningful and full developing country participation in multilateral trade negotiations, in reforming the international financing architecture, in the formulation of financial standards and cords, and in multilateral forums dealing with international economic decision-making and norm-setting.⁴⁸ The 2002 World Summit on Sustainable Development reiterated such points.⁴⁹ The 2005 World Summit Outcome highlighted the global community’s commitment to “broaden and strengthen the participation of developing countries and countries with economies in transition in international economic decision-making and norm-setting, and to that end stress the importance of continuing efforts to reform the international financial architecture, noting that enhancing the voice and participation of developing countries and countries with economies in transition in the Bretton Woods institutions remains a continuous concern.”⁵⁰

At the institutional level, issues relating to the participation and representation of developing countries in institutional decision-making have also been reflected. For example, the 2001 Doha Ministerial Declaration of the WTO stressed transparency and effective participation by all WTO Members, especially developing countries, as among the principles to be observed in the multilateral trade negotiations.⁵¹ This was subsequently followed up by pronouncements linking participation in the negotiations to the provision of technical assistance and capacity-building.⁵² The 2004 UNCTAD Sao Paulo Consensus also stressed the need to enhance the participation of developing countries in international economic decision-making and norm-setting (including in the financial, monetary, trading, and ICT

as “the production, in and through social relations, of effects that shape the capacities of actors to determine their circumstances and fate.” See *id.*, at 42.

⁴⁶ See *id.*, at 58, stating that “the institutional rules that establish a particular focal point also serve to generate unequal leverage or influence in determining collective outcomes ... the institutions that are established to help actors achieve pareto-superior outcomes also create ‘winners’ and ‘losers,’ to the extent that the ability to use the institution and, accordingly, collective rewards are unevenly distributed. This institutional context, moreover, lingers into the future, thus constraining action in ways that might not have been intended but nevertheless limit choice and shape action.” They went on to state that “great powers” have the ability “to establish international institutions and arrangements to further or preserve their interests and positions of advantage into the future, even as they do not directly or fully control those future arrangements.”

⁴⁷ Millennium Declaration, para. 5.

⁴⁸ Monterrey Consensus, paras. 38, 53, 57, 62, and 63. The last paragraph, in particular, stressed the need to enhance developing country participation in the IMF, World Bank, WTO, the Bank for International Settlements, the Basel Committee, the Financial Stability Forum, and the G-8.

⁴⁹ WSSD (Plan of Implementation), paras. 4, 47, 47(b), and 48.

⁵⁰ UN General Assembly, 2005 World Summit Outcome (A/RES/60/1, 24 October 2005), para. 38. (hereafter World Summit Outcome).

⁵¹ See Doha Ministerial Declaration, paras. 3, 10 and 49.

⁵² See e.g. WTO, July Framework (WT/L/579, 2 August 2004), Annex B:15 (on NAMA), Annex C(f) (on trade in services), and Annex D:5 (on trade facilitation); WTO, Hong Kong Ministerial Declaration (WT/MIN(05)/DEC, 22 December 2005), Annex E:6 (on trade facilitation).

regimes) and mandated UNCTAD to support developing country participation in multilateral negotiating processes and international decision-making through its analytical and technical assistance work.⁵³ The World Bank's Development Committee has recently noted that enhancing the voice of developing countries in the Bank's decision-making is "key to strengthening the credibility and legitimacy of the institution."⁵⁴ The IMF, at its September 2006 meeting, has also noted the importance of enhancing the voice and participation of developing countries in the IMF.⁵⁵

B. DEVELOPING COUNTRY PARTICIPATION IN GLOBAL TRADE INSTITUTIONS

The issue of effective participation by developing countries in the WTO and in UNCTAD is particularly important because of the key roles that these institutions play in shaping global trade rules. In the trade area, the WTO and UNCTAD are the most prominent in the trade area in terms of policy-setting and implementation. As such, they serve as the multilaterally agreed framework through which multilateral rules and disciplines relating to cross-border trade are discussed, designed, implemented, enforced, and managed to ensure that there is a smooth interface between different national systems.

In terms of their formal decision-making procedures and structures, both the WTO and UNCTAD are remarkably similar. The WTO has a one Member-one vote rule but operates by consensus.⁵⁶ UNCTAD Member States (which includes UN Member States and States which are members of the UN's specialized agencies and the International Atomic Energy Agency) also have one vote each but now (at least since 1992) also operates by consensus.⁵⁷ The highest decision-making bodies of both institutions are their respective ministerial-level conferences,⁵⁸ while ambassadorial-level bodies (the WTO General Council and the UNCTAD Trade and Development Board) serve as the highest decision-making bodies when

⁵³ Sao Paulo Consensus, paras. 15, 21, 31, and 48.

⁵⁴ World Bank, Development Committee Communique (April 2007), para. 14. Available at <http://www.imf.org/external/np/cm/2007/041507.htm>

⁵⁵ IMF, International Monetary and Financial Committee Communique (September 2006), para. 2. Available at <http://www.imf.org/external/np/cm/2006/091706.htm>. An initiative to effect some reforms in the quota shares of members which could decrease the shares (and hence voting power) of some European members while increasing those of some developing country members are currently being discussed in the IMF Board is increasingly becoming contentious, dividing the Europeans from the other members.

⁵⁶ WTO, Agreement Establishing the World Trade Organization (1994), art. IX:1. (hereafter WTO Agreement). Voting has never taken place at the WTO to date. There are currently 151 WTO Members (which include not only States but also "separate customs territories" such as Hong Kong – China and Taiwan Province of China). The European Communities (now the European Union) is also a WTO Member in their own right, with the number of votes equal to the number of EU Member States who are WTO Members.

⁵⁷ UN General Assembly, Resolution 1995 (XIX) (30 December 1962), as amended, para. 24. (hereafter UNCTAD Charter). UNCTAD's shift from being a negotiating forum to being a consensus-building forum after UNCTAD VIII has meant that voting does not now take place in UNCTAD. While paragraph 24 of UNCTAD's charter from the UN General Assembly has never been amended, the practice now, since UNCTAD VIII, is for decisions to be taken by consensus. See UNCTAD, *A New Partnership for Development: The Cartagena Commitment* (1992), para. 55, which highlights the importance and use of consensus-building as the basis for the deliberative results of UNCTAD's governing and subsidiary bodies.

⁵⁸ The Ministerial Conference in the case of the WTO which meets at least every two years (there have been 6 so far), see WTO Agreement, art. IV:1; and the quadriennial Conference of UNCTAD (there have been 11 so far), see UNCTAD Charter, paras. 1-3.

the ministerial-level conferences are not in session.⁵⁹ Day-to-day intergovernmental work in both institutions is carried out through the various subsidiary bodies.⁶⁰ The main difference between the two institutions currently, in terms of their role in shaping global trade rules, is as follows:

- The WTO is both a negotiating⁶¹ and dispute settlement⁶² forum. The outcomes of WTO trade negotiations will become part of the legal corpus of WTO and therefore legally binding and enforceable on WTO Members, who are required to put in place domestic legislation designed to implement their WTO treaty commitments. The outcomes of WTO dispute settlement proceedings are also binding and enforceable on WTO Members.
- UNCTAD, however, has effectively lost its function of serving as a negotiating forum.⁶³ UNCTAD is now primarily focused on doing policy analysis and research and providing technical assistance on trade and development-related issues to UNCTAD Member States. The outcomes of the deliberations of its intergovernmental processes, while reflecting the political will of its Member States, are essentially binding only in terms of guiding the work of the UNCTAD Secretariat rather than serve as legally binding and enforceable treaty commitments on the part of UNCTAD Member States. However, UNCTAD's analytical work and technical assistance to developing countries on trade and development-related issues often help shape developing country negotiating responses.

1. Participating in the World Trade Organization

The fundamental basis for all discussions regarding WTO governance and decision-making processes is the WTO Agreement, especially Article II (Scope of the WTO), Article III (Functions of the WTO), Article IV (Structure of the WTO), Article VI (The Secretariat), Article VIII (Status of the WTO), Article IX (Decision-Making), and Article XVI:1 (Miscellaneous Provisions). In addition, especially in relation to General Council and Ministerial Conference processes, the "Rules of Procedure for Sessions of the Ministerial Conference and Meetings of the General Council"⁶⁴ approved by the WTO General Council in 1996 is the only formal WTO legal instrument in this regard.

Issues relating to internal WTO institutional governance processes have long been recognized by, and been placed on the agenda of, the WTO.⁶⁵ This is due primarily to the fact

⁵⁹ The General Council (composed of the ambassadors of all WTO Members) in the case of the WTO, see WTO Agreement, art. IV:2; and the Trade and Development Board (composed of the ambassadors of UNCTAD Member States) in the case of UNCTAD, see UNCTAD Charter, paras. 4 and 14.

⁶⁰ Various Councils and Committees in the case of the WTO, see WTO Agreement, art. IV:5-7; and various Commissions in the case of UNCTAD, see UNCTAD website at <http://www.unctad.org/Templates/Page.asp?intItemID=3360&lang=1>.

⁶¹ WTO Agreement, art. III:2.

⁶² WTO Agreement, art. III:3.

⁶³ UNCTAD, however, still does serve as the forum in which the Third Round of the Global System of Trade Preferences Among Developing Countries (GSTP) – essentially a framework for the exchange of trade preferences among developing countries to promote South-South trade. For more on the GSTP, see, inter alia, http://www.unctadxi.org/templates/Press___897.aspx and http://www.unctadxi.org/templates/Page___1692.aspx.

⁶⁴ WT/L/161, 25 July 1996.

⁶⁵ See, e.g. WTO, Singapore Ministerial Declaration (WT/MIN(96)/DEC, 18 December 1996), para. 6; WTO, Geneva Ministerial Declaration (WT/MIN(98)/DEC, 20 May 1998), para. 4; Doha Ministerial Declaration, para. 10.

that the institutional governance mechanisms and processes currently used in the WTO have led to problems of transparency, inclusiveness, participation, and efficiency in decision-making in the organization.⁶⁶ In this connection, there are two (2) major issues that bear importantly on the ability of developing countries to participate effectively in the negotiations:

- (3) the decision-making process; and
- (4) the capacity to participate.

The decision-making process is important because of the impact that it may have on the actual outcomes. For example, the difficulties inherent in complying with the requirement in Article IX:1 of the WTO Agreement for formal consensus as the basis for decision-making has pushed the WTO to engage in and rely more and more on informal processes for building such consensus⁶⁷, which in turn have historically tended to reflect, in terms of both process and outcome, the differential power relations among Members that exist in the organization.

a. Formal and Informal Processes

Concern among developing countries of the impact of such informal processes on the outcomes of the negotiations led to a burst of activity during the early 2000s in the WTO to craft a set of process-focused rules to be applied in WTO negotiations. Issues and suggestions for reforms in the WTO's decision-making procedures gained in prominence first after the collapse of the 1999 Seattle Ministerial Conference, as a result of which Members undertook to have discussions relating to internal transparency and participation. But the last major formal discussion among Members on these issues took place during the July 2000 meeting of the General Council. During that meeting, the then-General Council Chair, Ambassador Kare Bryn of Norway, sought to identify, based on his consultations with Members, what he felt were the "mainstream of the discussions" with respect to internal transparency and participation towards achieving consensus.⁶⁸

Subsequent WTO process-related documents, such as the TNC Negotiating Principles and Practices⁶⁹ have pointed to Ambassador Bryn's statements above as indicative of "best practices" in terms of internal transparency and the participation of Members in decision-

⁶⁶ See e.g. Amrita Narlikar, *WTO Decision-Making and Developing Countries*, TRADE Working Paper No. 11 (South Centre, November 2001) (hereafter Narlikar); Richard H. Steinberg, *In the Shadow of Law or Power? Consensus-Based Bargaining and Outcomes in the GATT/WTO*, 56:2 INTERNATIONAL ORGANIZATION (Spring 2002) (hereafter Steinberg); South Centre, *Institutional Governance and Decision-Making Processes in the WTO (SC/TADP/AN/IG/7, December 2003)* (hereafter South Centre Institutional Governance). For an in-depth account of power politics in the WTO, see e.g. Fatoumata Jawara and Aileen Kwa, *BEHIND THE SCENES AT THE WTO: THE REAL WORLD OF INTERNATIONAL TRADE NEGOTIATIONS* (2003).

⁶⁷ UNDP, at 88.

⁶⁸ See WTO, *General Council – Minutes of the Meeting of 17 and 19 July 2000 (WT/GC/M/57, 14 September 2000)*, para. 134. Subsequently, during the December 2000 General Council meeting, Ambassador Bryn outlined what he believed were the "mainstream of the discussions on the preparation and organization of Ministerial Conferences." See WTO, *General Council – Minutes of the Meeting of 7, 8, 11, and 15 December 2000 (WT/GC/M/61, 7 February 2001)*, para. 196.

⁶⁹ See WTO, *Trade Negotiations Committee – Minutes of the Meeting of 28 January and 1 February 2002 (TN/C/M/1, 14 February 2002)*, para. 8, endorsing Section B of the General Council Chair's Statement to the TNC of 1 February 2002 (TN/C/1, 4 February 2002).

making in the WTO. However, some Members have expressed reservations, exceptions, qualifications or commentaries with respect to Ambassador Bryn's statement.⁷⁰

Table 1

Author	WTO Document Reference
General Internal Transparency and Inclusiveness Issues	
Bulgaria	<i>Internal Transparency</i> (dated 2 November 2000), WT/GC/W/422, 13 November 2000
WTO General Council	<i>Minutes of the Meeting of 17 and 19 July 2000</i> , WT/GC/M/57, 14 September 2000, paras. 132-170
Process for the Doha-Mandated Negotiations	
WTO General Council	<i>Minutes of the Meeting of 7-8 February 2000</i> , WT/GC/M/53, 15 March 2000, paras. 12-39
Cuba, Dominican Republic, Egypt, Honduras, Kenya, Pakistan, Tanzania, Uganda, Zimbabwe	<i>Establishment of the Trade Negotiations Committee (TNC) and Related Issues</i> (undated), WT/GC/58, 21 December 2001
Cuba, Dominican Republic, Honduras, India, Indonesia, Jamaica, Kenya, Malaysia, Pakistan, Sri Lanka, Tanzania, Uganda, Zimbabwe	<i>Organization of Negotiations Envisaged in the Doha Ministerial Declaration</i> (dated 28 January 2002), TN/C/W/2, 29 January 2002
WTO Ministerial Conference, Fourth Session	<i>Ministerial Declaration</i> (adopted 14 November 2001), WT/MIN(01)/DEC/1, 20 November 2001, para. 49
WTO Trade Negotiations Committee	<i>Minutes of the Meeting of 28 January and 1 February 2002</i> , TN/C/M/1, 14 February 2002
WTO Trade Negotiations Committee	<i>Statement of the Chair of the General Council on the Structure of the Negotiations and Arrangements for Chairing</i> (dated 1 February 2002), TN/C/1, 4 February 2002
Preparatory Process and Negotiations in Ministerial Conferences	
WTO General Council	<i>Minutes of the Meeting of 7, 8, 11, and 15 December 2000</i> , WT/GC/M/61, 7 February 2001, paras. 195-205
Cuba, Dominican Republic, Egypt, Honduras, India, Indonesia, Jamaica, Kenya, Malaysia, Mauritius, Pakistan, Sri Lanka, Tanzania, Uganda, Zimbabwe	<i>Preparatory Process in Geneva and Negotiating Procedure at the Ministerial Conferences</i> (dated 19 April 2002), WT/GC/W/471, 24 April 2002
Australia, Canada, Hong Kong (China), Korea, Mexico, New Zealand, Singapore, Switzerland	<i>Preparatory Process in Geneva and Negotiating Process at Ministerial Conferences</i> (dated 27 June 2002), WT/GC/W/477, 28 June 2002
WTO General Council	<i>Minutes of the Meeting of 13 to 14 May 2002</i> , WT/GC/M/74, 1 July 2002, paras. 89-130
WTO General Council	<i>Minutes of the Meeting of 8 and 31 July 2002</i> , WT/GC/M/75, 27 September 2002, paras. 27-84
WTO General Council	<i>Minutes of the Meeting of 10-12 and 20 December 2002</i> , WT/GC/M/77, 13 February 2003, paras. 261-318
WTO General Council Chair (Ambassador Sergio Marchi of Canada)	<i>Internal Transparency and Effective Participation of Members in the Preparatory Process in Geneva and Organization of Ministerial Conference</i> , JOB(02)/197/Rev.1, 6 December 2002 (noted by the WTO General Council during its meeting on 10-12 and 20 December 2002)

NOTE: The listing above may not necessarily be complete.

⁷⁰ See, e.g., WTO, General Council – Minutes of the Meeting of 13-14 May 2002 (WT/GC/M/74, 1 July 2002).

In the WTO, formal decisions are made and adopted by Members in formal meetings by consensus under Art. IX of the WTO Agreement. Formal and on-the-record meetings of WTO bodies are also used as the venues in which Members can put forward and formally discuss their proposals and views on issues. Formal meetings are recorded and minutes are kept, circulated, and made publicly available. These kinds of meetings and the records of such meetings, therefore, are valuable in ensuring both internal and external transparency, and also allow less well-resourced delegations (especially those that do not have representation in Geneva) to follow, albeit *ex post facto*, the formal discussions that took place leading up to the decision taken.

However, the need for formal consensus has meant that informal processes are often, if not always, used in arriving at formal consensus decisions in the WTO.⁷¹ Various permutations of informal processes were used, including informal open-ended working groups, “confessionals”, “Green Rooms”, “mini-ministerials”, and informal meetings of heads of delegations (HODs).⁷² In recent years – e.g. 2005-2007 – even more exclusive informal groupings composed of both developed and developing countries such as the “Five Interested Parties” (FIPs) composed of the US, EU, India, Brazil, Australia; the “New Quad” or the “G-4” composed of the US, EU, India, and Brazil; the “G-6” composed of the FIPs plus Japan; and the “Oslo Group” comprising Norway, New Zealand, Kenya, Indonesia, Chile, and Canada made their appearance as informal vehicles that sought to move the WTO negotiations forward. The FIPs and the G-6 disappeared around the middle of 2006 after their failure to reach an agreement (which led to the suspension of the WTO negotiations in July 2006), the G-4 collapsed after the failure of their meeting in Potsdam in July 2007, and the Oslo Group, since its creation in late 2006, has not been able to gain any traction as a viable alternative informal vehicle for the negotiations.

The common denominator for all of these informal modes of discussions is that the discussions that take place therein are generally all off-the-record, such that no official records are kept of what was said and who said what. This means that any records of what happened in such meetings will have to rely on the memories of the participants and the direction and tone of discussions therein inferred from the outcomes thereof.

The use of informal processes described above may provide Members with a degree of flexibility in discussing issues.⁷³ However, they more often introduce “ad hoc-ism and uncertainty to the decision-making procedures” and exacerbate the problems of participation, transparency, and inclusiveness that many developing countries face inside the WTO.⁷⁴

Informal processes also often tend to provide greater power to the WTO Secretariat and its Director-General in terms of directing the frequency, conduct, extent of participation, and other parameters for the discussions.⁷⁵ Part of the participation problem that developing countries face in the WTO is that all too often, despite the theoretically “member-driven” nature of the institution’s governance, the WTO Secretariat plays a major role in both setting and moving the WTO’s negotiating agenda towards a particular set of issues and an outcome that the WTO’s developing Members might not necessarily find to be optimal for their development prospects.

Like the secretariat of any other intergovernmental organization, the WTO Secretariat – as a bureaucracy – has its own institutional agenda, bias, and perspectives – i.e. the

⁷¹ UNDP, at 88.

⁷² See South Centre Institutional Governance, para. 57.

⁷³ Narlikar, at 9.

⁷⁴ *Id.*, at 8-11.

⁷⁵ *Id.*, at 10.

promotion of multilateral trade liberalization by “entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations”⁷⁶ – that often get reflected in the technical assistance, bureaucratic support, and information that it provides to WTO Members. An institutional bureaucracy predisposed to support and promote certain policies over those of others may well skew, inadvertently or not, the decision-making process in favour of outcomes that reflect the preferences of those Members whose views coincide more closely with the Secretariat’s than of those Members whose views do not.⁷⁷

Because of their very informality, there are no formal mechanisms which Members could use to challenge, for example, the conduct of informal meetings, the extent of their participation and inclusiveness, the role of the chairs, etc. In addition, these informal processes have also been used and often dominated by the major developed countries in terms of setting the agenda and pushing forward their proposals to the rest of the membership.⁷⁸

Finally, the lack of formal written records of the discussions that take place in these informal meetings means that Members (i.e. most developing countries) who were not directly represented in these informal meetings will be negotiating at a distinct and automatic disadvantage. They will have a built-in negotiating handicap due to their lack of sufficient information regarding the negotiating positions of other Members upon which to base their own negotiating positions and strategies.⁷⁹ The concept of mutually beneficial negotiated outcomes that is part of the WTO’s institutional ethos⁸⁰ depends upon all negotiating partners having sufficient information about each other’s negotiating positions in order to be able to arrive at mutually satisfactory outcomes.

The difficulties faced by developing countries in the context of the WTO’s decision-making processes are now well-recognized as an institutional problem faced by the WTO, as can be seen from the following statement from UNCTAD’s 2006 Trade and Development Report:

WTO negotiation procedures have often given the impression of less than full transparency and participation, so that some countries appear to have stronger influence than others. Decisions taken in so-called “green room” meetings or in other gatherings of a limited number of members are often presented to the entire membership as fait accompli. These procedures may have resulted from well-intentioned attempts to preserve practicality and efficiency in complex decision-making. However, they have prompted concerns about unequal influence and

⁷⁶ See WTO Agreement, 3rd preamble.

⁷⁷ The role that bureaucracies of international organizations play in providing their institutions with autonomy and effective power in terms of shaping policy outcomes is well discussed in Michael N. Barnett and Martha Finnemore, *The Politics, Power and Pathologies of International Organizations*, in 53:4 *International Organization* 699-732 (Autumn 1999), at 715-727. (hereafter Barnett and Finnemore). The Secretariat of the General Agreement on Tariffs and Trade (GATT), for example, was instrumental to the establishment of the WTO by acting “as a midwife for the birth of the new organisation” because of its “self-interest in enhancing its role and improving its image, through transformation of GATT into WTO.” See Vinod Rege, *Developing Countries and Negotiations in the WTO* (1998), at <http://www.sunsonline.org/trade/process/lookup/1998/08070098.htm> (hereafter Rege).

⁷⁸ See e.g. Steinberg, at 354-55.

⁷⁹ As the UN points out, “in practice, however, developing countries find it difficult to follow negotiations or invest in studies that evaluate the implications of the trade reforms for their economies, or they simply have no resources even for sending delegates to the negotiations.” WESS 2006, at 26.

⁸⁰ See e.g. Doha Ministerial Declaration, para. 2; and WTO Agreement, 1st-3rd preambular clauses.

unequal representation of national priorities in processes the results of which affect all participants.⁸¹

This does not mean, however, that WTO negotiating outcomes are predetermined by the power relations among Members. The ability of developed Members to agree on the terms of agreement and expect that agreement to be ratified by the rest of the membership now seems to be fast diminishing as other developing Members both individually and collectively become more able and willing to assert and defend their own perspectives and views.

b. Differential Capacity to Participate

In addition to the process issue which affects the qualitative nature of individual developing country participation in WTO decision-making, an associated issue is the participation capacity question – i.e. effective participation is also a function of the size and expertise of the Member's delegation in Geneva and the extent to which such delegation is provided with adequate and effective technical and policy support from their capital.⁸² Developing country delegations to the WTO tend to be much smaller in general than those of developed country delegations.

In 1997, developing country delegations averaged only 3.6 people (ranging from zero in the case of WTO Members without missions in Geneva, 1 or 2 professional staff for many LDCs, to as many as 10-15 for bigger or richer developing countries) compared with 6.7 for developed countries.⁸³

By 2002, the numbers were not much improved, with 3.81 people on average per developing country delegation,⁸⁴ ranging from zero in the case of 24 developing country WTO Members that do not have missions in Geneva then to 10 or more for some bigger developing countries such as Nigeria (10), China (11), and Brazil (12) with a total of 385 delegates for all developing countries in the WTO, and 5.82 delegates per developed country Member ranging from two delegates for many of the transition economies to more than 15 for the major developed countries (US – 16, EU – 17, Japan – 22⁸⁵ – all developed countries have

⁸¹ TDR 2006, at 223.

⁸² South Centre Institutional Governance, para. 63. The UN has pointed that “[i]n practice ... developing countries find it difficult to follow negotiations or invest in studies that evaluate the implications of the trade reforms for their economies, or they simply have no resources even for sending delegates to the negotiations. ... the role played by developing countries is limited and changing the rules of the game in their favour is hard, making asymmetries difficult to redress.” WESS 2006, at 26.

⁸³ UNDP, at 87-88.

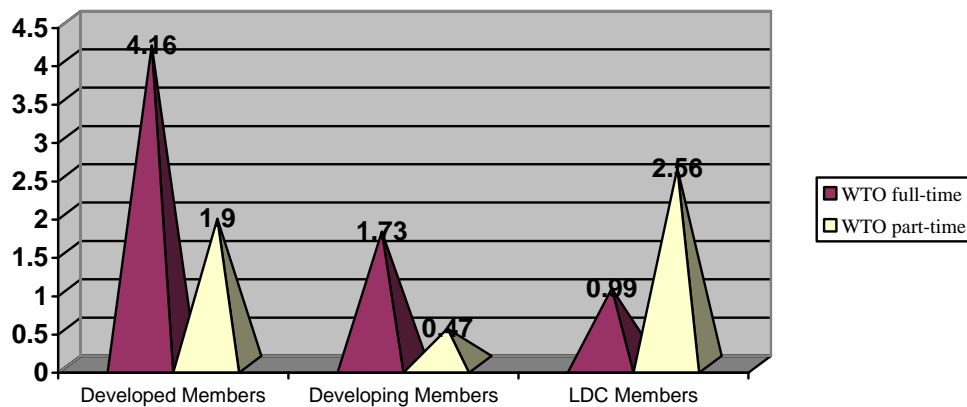
⁸⁴ It is also often the case that these delegates from developing countries represent their countries not only in the WTO but also in other intergovernmental organizations in Geneva such as UNCTAD, the World Health Organization (WHO), the World Intellectual Property Organization (WIPO), etc. Only a small number of developing countries have missions in Geneva dedicated solely to WTO matters. An author, citing Richard Blackhurst, has estimated that at least 3 delegates would be needed “to cover the most essential meetings of the WTO and report back to the capital.” See Hakan Nordstrum, *The World Trade Organization Secretariat in a Changing World*, 39:5 *Journal of World Trade* 819-853 (2005), p. 838. (hereafter Nordstrum). This number of people refers only to those who are attending meetings, and does not even include the people that would be needed – both in their mission and their capitals – to provide these delegates with the necessary substantive analytical support with respect to the issues being negotiated. In many cases, developing country delegations often do not have such substantive analytical support, hence their reliance on external organizations such as the South Centre or UNCTAD to provide such support.

⁸⁵ South Centre Institutional Governance, para. 64. The figures in this 2003 South Centre paper were based on the April 2002 WTO Directory. There are no commonly accepted definitions of “developing”

missions to the WTO⁸⁶. The European Union (EU), officially called the European Communities (EC) in the WTO and which is a separate WTO Member in itself, represents all EU Member States (through the European Commission’s Geneva delegation to the WTO) and can call on the resources of the WTO missions of the various EU Member States.⁸⁷

More recently, on the basis of a comparative analysis conducted by the South Centre early in 2008 in terms of officially-accredited country delegations to the WTO and UN in Geneva as reflected in the March 2007 WTO Directory and the April 2007 UN Directory of Permanent Missions in Geneva, comparative levels of representation at the WTO continue to show an imbalance in terms of representation.

Comparative Member Representation in the WTO – March-April 2007



Note: “WTO full-time” refers to delegates listed only in the WTO Directory. “WTO part-time” refers to delegates listed in both the UN and WTO directories and hence assumed to cover both WTO and other Geneva-based international organizations.

Source: Author’s calculations, with Dr. Ram Singh of the Indian Institute of Foreign Trade; based on cross-analysis of delegation lists in the March 2007 WTO Directory and the April 2007 UN Directory of Permanent Missions in Geneva.

Developed countries have an average of 4.16 delegates working full-time and 1.9 delegates working part-time on WTO issues. These figures cover a wide variation of delegation size, ranging for example from 20 full-time delegates to the WTO each in the European Commission’s and the Republic of Korea’s delegations to just 3 part-time delegates to the WTO in the missions of Portugal and the Slovak Republic. The thirty developed country Members of the WTO, with a combined population of 1.17 billion people, is represented by 125 full-time and 114 part-time delegates to the WTO (or approximately 182 full-time delegates assuming that the 114 part-time delegates would be equivalent to 57 full-time delegates to the WTO, further assuming that a delegate covering both WTO and other

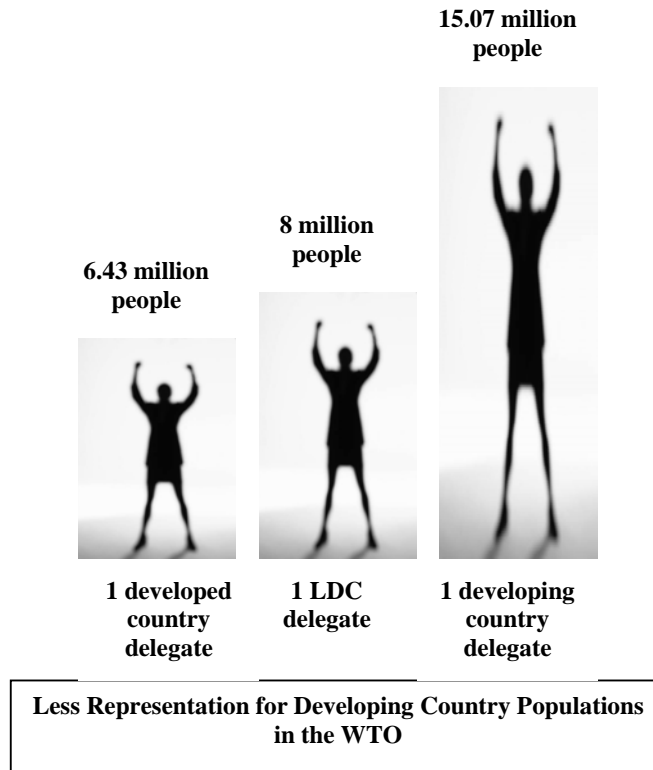
or “developed” countries in the WTO. Classification is by self-ascription. For example, Hong Kong, Korea, Mexico, and Turkey are included in the “developing country” classification because they describe themselves as developing countries in the WTO (even if they are not G-77 members). Singapore is also considered a developing country in the WTO and is a member of G-77. The “developed country” classification includes all Member States of, and countries that are in the process of accession to, the European Union; countries whose terms of accession to the WTO classified them as “developed” such as Chinese Taipei; and countries that are members of the Organization for Economic Cooperation and Development (OECD) who do not otherwise self-ascribe themselves to be a “developing country”.

⁸⁶ See Table 3: Missions in Geneva, in Nordstrum, at 838.

⁸⁷ South Centre Institutional Governance, para. 64.

international organizations would allocate at least 50% of his or her time to WTO issues). That is about 1 full-time delegate to the WTO per 6.43 million people in developed countries.

Developing country Members (including LDCs but excluding WTO Observers or countries in the process of accession) of the WTO with missions in Geneva have an average of 1.73 delegates working full-time and 0.47 delegate working part-time on WTO issues. These figures also cover a wide variation, ranging from zero in the case of non-resident developing countries to, for example, China's 17-strong full-time WTO mission, Thailand's 14-strong full-time WTO mission, the Philippines' 12-strong full-time WTO mission, Brazil's 6 full-time and 16 part-time delegation strength to the WTO, and Sri Lanka's two delegates working part-time on WTO issues. All in all, to represent the 5.81 billion people on the planet who live in the developing country Members of the WTO, there are 235 full-time and 301 part-time delegates (or approximately 385.5 full-time delegates also assuming that the 301 part-time delegates would be equivalent to 150.5 full-time delegates to the WTO, further assuming that a delegate covering both WTO and other international organizations would allocate at least 50% of his or her time to WTO issues). This means that 1 developing country delegate would represent on average 15.07 million people, more than twice that theoretically represented by an individual developed country delegate.



The least-developed countries (at least those who have missions in Geneva) continue to be the most disadvantaged in terms of representation in the WTO, with each LDC on average having less than one delegate (0.99) working full-time and 2.56 others working part-time on WTO issues. There are a total of 33 LDC delegates covering WTO issues on a full-time basis, supported by 87 other colleagues who also handle issues in other Geneva-based international organizations (or approximately 76.5 full-time delegates also assuming that the 87 part-time delegates would be equivalent to 43.5 full-time delegates to the WTO), to represent the approximately 612.4 million people who live in the LDC Members of the WTO. The LDC figures can be explained by the fact that the delegations of LDCs in Geneva cover work not only in the WTO but also in other international organizations such as the UN, WHO, WIPO, WMO, etc. All in all, there are 235 full-time and 301 part-time delegates). This means that 1 LDC delegate theoretically represents on average 8 million people.

The most disadvantaged in terms of day-to-day representation in the WTO continue to be the 28 WTO Members and Observers without permanent missions in Geneva.

In addition to structural power imbalances reflected in the WTO's institutional processes and individual negotiating capacity constraints that adversely affect the quality of developing country participation, such participation is also affected by information

asymmetries that exist between the different negotiating partners. In many cases, developing country delegations to the WTO often do not have adequate knowledge of the implications on their economies and trade of the negotiating proposals that are submitted – a problem that has persisted ever since at least the Uruguay Round and which leads them to often adopt cost-minimization rather than benefit-maximization negotiation strategies.⁸⁸

This means in many cases that in the absence of either direct policy guidance, technical expertise, or full information regarding the possible impacts of various negotiating proposals on their country, the individual negotiator's personal considerations, perspectives, inclinations, and personal relationships with other delegates may also play a big role in shaping a country's official negotiating positions and strategy.⁸⁹ As a result, the personality and personal capabilities of individual negotiators from developing countries often make a difference in the extent to which individual developing countries get to participate in the negotiations.⁹⁰

All too often, the lack or inadequacy of capital-based expertise and technical support for their negotiators on the part of many delegations have translated into having both the negotiating position and the negotiating strategy be set by the negotiators themselves rather than their capital-based superiors. Many developing countries have tended to rely on their Geneva-based negotiators, as their country's perceived or main source of experts on WTO issues, to define country positions.

c. Addressing Imbalances through Governance Adaptation by Coalition Building

In sum, the WTO's institutional decision-making process, individual negotiating capacity limitations, and information asymmetries are, among others, constraints to the actual effectiveness and mode of participation by developing countries in the WTO's decision-making system. In response to these constraints, developing countries have increasingly turned to forming informal groupings or coalitions and to strengthening existing groupings with other developing countries. This response has been particularly evident since the launch of the WTO's Doha negotiations in late 2001.

Hurrell and Narlikar have suggested that this new feature of WTO negotiations i.e. coalition-building by developing countries – is their adaptation to institutional drawbacks. They suggest that it does not constitute a “conscious re-thinking of fundamental goals and values” because it is the result of past interactions and experiences within the WTO and does not seek a redefinition of the underlying concepts and values of the negotiating forum.⁹¹ That is, it is a mere behavioural change rather than a fundamental ideational shift.

On the other hand, it could also be suggested that today's coalition-building by developing countries in the WTO goes beyond being a mere behavioural change in response to their historical experiences or marginalization in the GATT/WTO system.

⁸⁸ See e.g. Rege.

⁸⁹ Rege.

⁹⁰ Sheila Page, *Developing Countries in GATT/WTO Negotiations* (Overseas Development Institute Working Paper, 2001), p. 36. (hereafter Page)

⁹¹ Andrew Hurrell and Amrita Narlikar, *A New Politics of Confrontation? Developing Countries at Cancun and Beyond*, 20:4 *Global Society* 415-433 (2006).

i. Ideational Shift – Pursuing Development and Trade Policy Choice

It can be argued that a fundamental ideational shift has indeed taken place in terms of how developing countries view the WTO, its role in their respective development processes, and their role as participants in its governance system, and underlies the basic negotiating positions of today's WTO developing country coalitions. This ideational shift can be clearly seen in the increasingly development policy-oriented thrust of the negotiating positions of the various developing country coalitions, in which the concept of increased levels of development policy choices and flexibilities is sought to be reflected in operational terms as part of the negotiated outcomes.⁹²

Developing country coalition-building in the WTO in the Doha negotiations is helped by the fact that the negotiating mandate established at Doha and further clarified in the July 2004 framework package provided them with both the moral and political basis for stressing the need to ensure that the negotiating outcomes support their articulated development priorities. The Doha negotiation's mandate on promoting developing countries' needs and interests gave developing countries the flexibility to establish for the most part a basic level of commonality of interests in many of the negotiating areas that later on formed the basis for their groups' negotiating positions.

As a result, developing country participation in the Doha negotiations now take place both directly – as individual Members – and indirectly – as members of various groups or coalitions. In the major negotiating issues of agriculture, NAMA, and trade facilitation, this trend is much more evident (the services negotiations, with its bilateral request-offer negotiating format, are not as conducive to group-based negotiations as the others).

More than simply viewing the WTO as an international negotiating forum where trade concessions may be negotiated and exchanged, developing country coalitions now view the WTO as a negotiating forum in which the development implications of trade concessions will need to be considered as part and parcel of the philosophical moorings and values underlying the multilateral trading system. The G-20, the G-33, the NAMA-11, the Core Group on Trade Facilitation, the African Group, the ACP Group, the LDCs Group, the Small Vulnerable Economies Group, all have clearly and distinctly pegged their positions in the WTO to a clear ideational preference for linking negotiated concessions to their respective longer-term strategic development objectives and ideas.⁹³ This developing country insistence on viewing

⁹² This is reflected in, for example, references to “less than full reciprocity” in the NAMA negotiations championed by the NAMA-11, “paragraph 6 flexibilities” championed by the Paragraph 6 countries, “special products” and the “special safeguard mechanism” in the agriculture negotiations being promoted by the G-33, the more than 35 references to “development” in the Doha Ministerial Declaration itself, LDC positions relating to the provision of special and differential treatment, as well as proposals by the Core Group on Trade Facilitation together with the African Group, ACP and LDC Groups to link new disciplines on trade facilitation to binding commitments on technical assistance, capacity-building and special and differential treatment.

⁹³ See e.g. G-33 Ministerial/Senior Officials Coordination Meeting Statement, 15 November 2007, stating the group's commitment to “secure a more balanced outcome that addresses the development dimensions of the Doha Development Agenda as well as the genuine concerns of small, poor and vulnerable farmers worldwide”, at <http://www.tradeobservatory.org/library.cfm?refID=100807>, see also the G-33 statement on 17 December 2007, available at <http://www.tradeobservatory.org/library.cfm?refID=101176>; G-20 Communique, 15 November 2007, stating that the WTO negotiations' outcome must be one that delivers on the development dimension of the Round within the shortest period of time possible”, see http://www.brazil.org.uk/newsandmedia/pressreleases_files/20071116.html; Small Vulnerable Economies (SVEs) Statement, 18 December 2007, at

the WTO as not merely a trade institution but as a development and trade institution has been clearly evident in all of the ministerial conferences since Seattle in 1999, and indeed was instrumental in ensuring that the mandate of the Doha negotiations is contextualized within a broader development discourse.

ii. Developing Country Coalition Building as Rational Governance Adaptation in the WTO

Working together and forming coalitions is a rational response by developing countries to both the issue of negotiating constraints and the issue of being better able to advance their development agenda. Coalitions enable developing countries to pool together resources, find strength in numbers, be represented (directly or indirectly) in various negotiating formats, and have a vehicle through which they can inject their agenda into and influence the negotiating outcome. In essence, working together in coalitions helps developing countries in the WTO to increase their power and consequently their ability to influence outcomes despite the complexity of the issues and the political dynamics that occur in the negotiations. As one author has pointed out, a function of coalitions in multilateral negotiations “is to give power to their members to help them achieve their objectives. A common platform, incorporating the minimal demands of each separate coalition member, is easier to handle and negotiate than the sum of individual items.”⁹⁴

<http://www.tradeobservatory.org/library.cfm?refID=101175>; the Joint Statement of the G-20, the G-33, the NAMA-11, the ACP Group, the LDCs, the African Group, the Small, Vulnerable Economies (SVEs), and the Cotton-4, 15 November 2007, stating that “the full integration of developing countries into the multilateral trading system will only be achieved if the WTO reflects their development needs and concerns”, at <http://www.tradeobservatory.org/library.cfm?refID=100810>.

⁹⁴ Christophe Dupont, *Negotiation as Coalition Building*, 1 *International Negotiation* 47-64 (1996), p. 49.

Developing Country Groups and Coalitions in the GATT-WTO System

The GATT Uruguay Round

Coalition-building among developing countries in the WTO is, of course, not a recent phenomenon. But the nature and characteristics of the coalitions have changed over time since the Uruguay Round.⁹⁵

During the pre-negotiation phase of the Uruguay Round from 1982-1986, a coalition of developing countries called the G-10⁹⁶ was formed that opposed new trade negotiations in the GATT before issues relating to standstill and rollback were first addressed and were also opposed to the inclusion of new issues such as services and intellectual property rights within the purview of the GATT.⁹⁷ The G-10 eventually disappeared “well before the end of the [Uruguay Round] ... and coalitions of developing countries concentrated on liberalization of agriculture and textiles and clothing.”⁹⁸ On the other hand, another coalition of developing countries also developed during the pre-negotiation phase called the G-20⁹⁹ that favored negotiating with developed countries over the issue of the inclusion of services in the agenda of the Uruguay Round. This group eventually merged with the G-9¹⁰⁰, a group of nine developed countries, to form the “Café au Lait” group, from which negotiating proposals eventually emerged that “provided the basis for the Punta del Este declaration and the launch of the Uruguay Round.”¹⁰¹

But during the Uruguay Round itself, developing countries “operated primarily on a country basis” with some coordination around common issues such as on special and differential treatment for least-developed and net food importing countries.¹⁰² The Café au Lait group’s “attempts to continue its activities in the Uruguay Round did not yield any visible results. The group survived in various versions – the Hotel de la Paix Group, the Friends of Services Group, the Rolle Group – but it had minimal visibility and minimal successes to its credit.”¹⁰³

⁹⁵ For a discussion of, inter-alia, the formation of developing country coalitions and alliances in the GATT and WTO, see Page, at 13-36. See also, for a general discussion of groupings in the WTO between 1995 and 2001, Constantine Michalopoulos, *The Participation of the Developing Countries in the WTO* (1999), pp. 16-19, 23-24. (hereafter Michalopoulos).

⁹⁶ This included Argentina, Brazil, Cuba, Egypt, India, Nicaragua, Nigeria, Peru, Tanzania, and Yugoslavia.

⁹⁷ World Bank, *The Trading system and Developing Countries*, p. 489, at http://publications.worldbank.org/catalog/content-download?revision_id=1526187.

⁹⁸ Sylvia Ostry, *The Uruguay Round North-South Bargain: Implications for Future Negotiations* (September 2000), p. 4, at <http://www.utoronto.ca/cis/Minnesota.pdf>.

⁹⁹ Composed of Bangladesh, Chile, Colombia, Ivory Coast, Hong Kong (China), Indonesia, Jamaica, Korea, Malaysia, Mexico, Pakistan, Philippines, Romania, Singapore, Sri Lanka, Thailand, Turkey, Uruguay, Zambia, and Zaire (now DR Congo).

¹⁰⁰ Composed of Australia, Austria, Canada, Finland, Iceland, New Zealand, Norway, Sweden, and Switzerland.

¹⁰¹ World Bank, *The Trading system and Developing Countries*, pp. 489-490, at http://publications.worldbank.org/catalog/content-download?revision_id=1526187.

¹⁰² Agriculture and Agri-Food Canada, *Groups and Alliances*, at <http://www4.agr.gc.ca/AAFC-AAC/display-afficher.do?id=1178814849909&lang=e>.

¹⁰³ *Id.*, p. 490. For more discussions on the role of developing countries and their negotiating strategies during the Uruguay Round, see e.g. TN Srinivasan, *Developing Countries and the Multilateral Trading System: From GATT to the Uruguay Round and the Future* (1998); John Whalley, *Developing Countries and System Strengthening in the Uruguay Round*, in Will Martin and Alan Winters (eds.), *The Uruguay Round and the Developing Economies* (1996); Gilbert Winham, *Explanations of*

The WTO

During the early years of the WTO, there were initial attempts at bringing together an overarching group of developing countries (similar to the G-77 in UNCTAD), but these attempts were later abandoned as it became clear that differing interests and institutional capacities posed ever greater challenges to such a grouping.¹⁰⁴ It was during the run-up to and after the 1999 Seattle Ministerial Conference that new formations of developing country coalitions started appearing – ranging from bloc-type groups such as the Like-Minded Group of the late 1990s¹⁰⁵, issue-based groups (such as the G-20 of the post-Cancun period), region-based groups (such as the African Group), and groups that share certain development characteristics (such as the Least-Developed Countries).¹⁰⁶

Learning from their experiences during the Uruguay Round – in particular from the experiences of the G-10 and the Café au Lait groups, their individual country-based negotiating experiences, and the results of the negotiated outcomes for developing countries – and taking into account the governance challenges they face in the WTO context, developing countries now tend to work together and negotiate in the WTO on the basis of voluntary developing country-only coalitions – whether organized along regional, cross-regional, or issue-based lines. The purely developing country coalitions that currently exist and are active, to one extent or another, in the WTO (at least since the end of the December 2005 Hong Kong Ministerial Conference) include the following:¹⁰⁷

Table 2

A. Regional Groups or Coalitions	B. Issue-Based Coalitions	C. Groups or Coalitions Based on Common Characteristics
<ul style="list-style-type: none"> • African Group • African, Caribbean, Pacific (ACP) Group • Association of South East Asian Nations (ASEAN) • Caribbean Community (CARICOM) • Pacific Islands Forum (PIF) 	<ul style="list-style-type: none"> • Cotton-4 • Core Group in Trade Facilitation (CGTF) • G-20 • G-33 • NAMA-11 • Paragraph 6 NAMA countries 	<ul style="list-style-type: none"> • Least-Developed Countries (LDCs) • Landlocked Developing Countries (LLDCs) • Small Vulnerable Economies (SVEs)

Developing Country Behaviour in the GATT Uruguay Round Negotiation, 21:3 World Competition Law and Economics (1998), pp. 109-134.

¹⁰⁴ See e.g. Michalopoulos, at 17; Page, at 28, 33-34.

¹⁰⁵ For a discussion of the genesis, negotiating strategy, and results of the Like-Minded Group, see Amrita Narlikar and John Odell, *The Strict Distributive Strategy for a Bargaining Coalition: The Like Minded Group in the World Trade Organization* (2003). (hereafter Narlikar and Odell).

¹⁰⁶ Page, at. 34.

¹⁰⁷ See Annex I for the current membership and short descriptions of these coalitions. Coalitions with a mixed developed and developing country membership are not included within the scope of this paper.

There have been studies on the kinds of collective action-focused coalition building that developing countries have undertaken in the WTO.¹⁰⁸ These have looked at the mechanics, internal dynamics, and the role that these coalitions play in WTO decision-making. These studies all point to the same overall conclusion – developing country coalitions are, per se and whether in their formal or informal sense, becoming an integral and important of WTO decision-making. They have become the de facto preferred response of developing countries to imbalances in power, process, and participation that existed in the GATT and which persisted into the WTO. They help harness the power of numbers in favour of those who join the group, and help improve the negotiating ability of their members by allowing them to put together a more proactive and defensive negotiating position.¹⁰⁹ As such, they are becoming the vehicles through which some of the worst aspects of such imbalances may be remedied on an operational basis and through which developing countries can enhance their role in shaping and influencing decision-making.

They also represent a clear recognition on the part of developing countries that negotiating success in the WTO lies in improved levels and modes of coordination with other developing countries in order to effect more effective and active participation in the WTO decision-making process. As a result, developing countries have shown dramatic improvements in their ability to establish and maintain their coalitions in the context of the WTO negotiations, and they have become more strategic in doing so.

Of the 112 WTO Members who are commonly recognized as, or who ascribe to themselves the designation of, “developing countries”, ninety-nine (or 87.61 percent) developing countries are members of one or more developing country groups or coalitions. Sixty-seven developing countries (or 58.77 percent of developing WTO Members) have joined one or more informal issue-based developing country coalitions. Sixty-one developing countries are members of a regional group (including 35 which are also members of one or more issue-based groups and 37 which are members of one or more common characteristic groups). Fifty-one developing countries have joined one or more common characteristic group. Nineteen countries have membership in all three types of developing country groups or coalitions.

As can be seen above, while region-based or common characteristic-based groups (such as the African or ACP Groups for the former and the LDC Group for the latter) continue to be major vehicles for coalition-based action by many developing countries, informal issue-based groups or coalitions such as the G-20, the G-33, and the NAMA-11 have now become the primary means for group-based action by developing countries.

These informal coalitions tend to be more proactive, making specific proposals instead of general statements towards negotiated issues, although “formal” groups such as African

¹⁰⁸ See e.g. Amrita Narlikar, *International Trade and Developing Countries: Coalitions in the GATT and WTO* (2003); Robert Wolfe, *New Groups in the WTO Agricultural Trade Negotiations: Power, Learning and Institutional Design* (CATPRN Commissioned Paper CP 2006-2, May 2006); Peter Draper and Razeen Sally, *Developing-Country Coalitions in Multilateral Trade Negotiations* (2005); Luisa Bernal et al., *South-South Cooperation in the Multilateral Trading System: Cancun and Beyond* (South Centre TRADE Working Paper No. 21, May 2004) (hereafter Bernal et al).

¹⁰⁹ See e.g. India Trade Minister Kamal Nath’s response to a question about the role of the developing country negotiating blocs. He explained that “India’s responsibilities as a leader of the G-20 bloc of countries did not constrain it in negotiations. Rather, representing the G-20 has guaranteed that India pursues a balanced deal because the G-20 itself groups together a broad range of offensive and defensive interests across different sectors. The positions taken by the G20 already represent a compromise between the interests of many developing countries.” See <http://www.carnegieendowment.org/events/index.cfm?fa=eventDetail&id=1016&&prog=zgp&proj=zt> ed

Group and LDC Group were very proactive on negotiations that dealt with special and differential treatment or on specific interests such as transit trade for landlocked developing countries.

Overlapping Coalition and Group Memberships

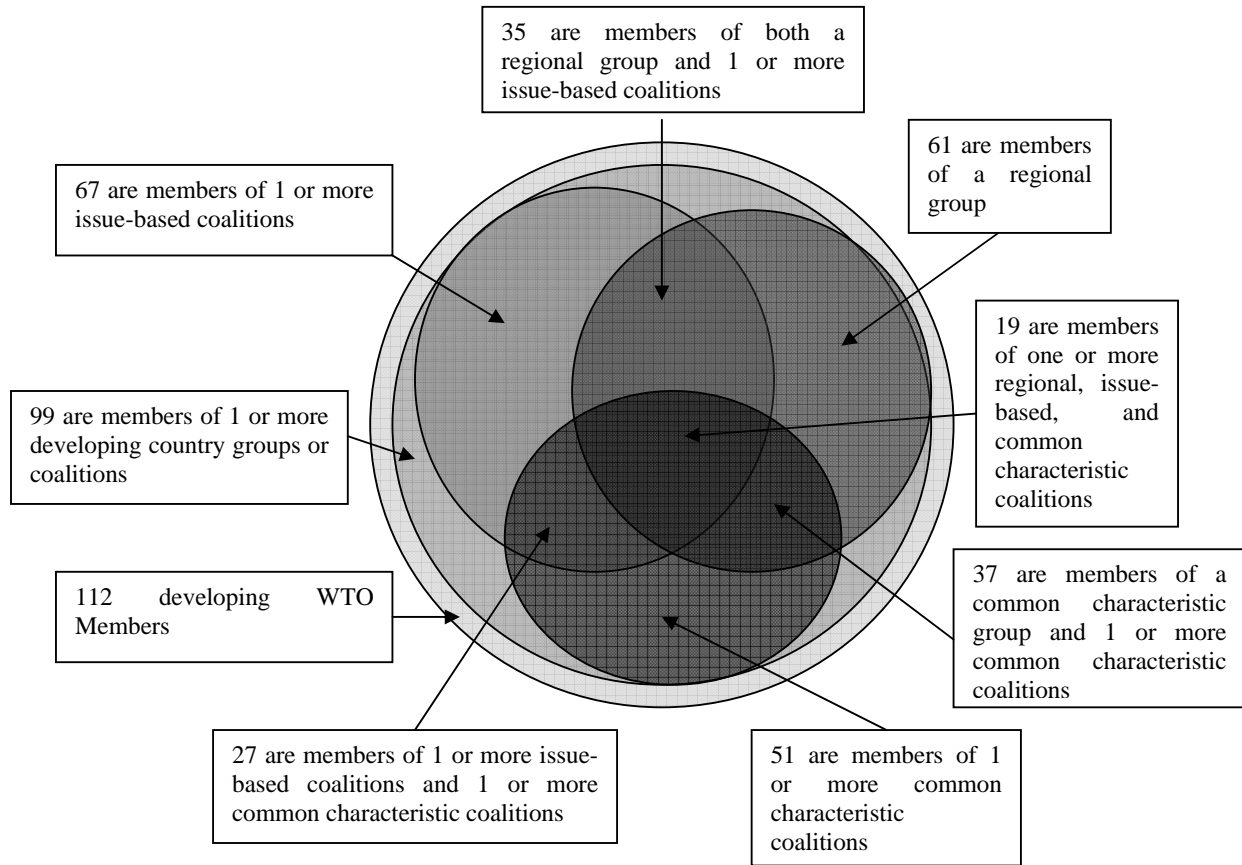
The use of both formal and informal coalitions by developing countries as vehicles for their participation in the negotiations naturally leads to overlapping memberships by individual developing countries in various groups. For example, all members of the African Group and the CARICOM are members of the ACP Group. All 32 LDC WTO Members, except for Bangladesh, Cambodia, Haiti, Maldives, and Nepal, are also members of the ACP Group.

Overlapping memberships can be both a source of weakness and of strength for developing country coalitions. For the most part, however, over the course of the Doha negotiations, developing countries have managed to maximize the strengths that overlapping memberships give to their respective groups and coalitions. Countries that are members of two or more coalitions often play key roles in ensuring that inter-coalition dynamics remain positive and mutually complementary to the maximum extent possible.

For example, the mutually supportive stances of the G-20 and the G-33 in the WTO agriculture negotiations are the direct result of having some members in common – i.e. China, Cuba, Guatemala, India, Indonesia, Nigeria, Pakistan, Philippines, Tanzania, and Zimbabwe – especially since some of such common members play influential leadership roles in both coalitions (such as India in the G-20 and the Philippines and Indonesia in the G-33). The same dynamics are evident between the issue-based Core Group on Trade Facilitation and the African, ACP, and LDC Groups, because of the fact that key members of the latter groups are also members of the former – i.e. Botswana, Cuba, Egypt, Kenya, Mauritius, Namibia, Nigeria, Tanzania, Trinidad and Tobago, Uganda, Zambia, and Zimbabwe. Overlapping memberships, in many ways, made inter-coalition dynamics easier and more possible, and lessened the potential for inter-group clashes to occur.

The extent of overlapping memberships among the various developing country coalitions can be seen below:

Developing Countries in the WTO: Groups and Overlapping Memberships



Group and Coalition Coordination and Unity

Cohesion

Of course, group cohesiveness – i.e. the ability to agree on common positions without defections – in the WTO negotiations in many ways continues to be directly related to the constituency represented by the group. Regional groups and non-regional groups composed purely of developing countries generally have the tendency of achieving consensus more often than groups with mixed constituencies such as the Cairns Group. In most instances, regional coalitions such as the African Group manage to work in a cohesive manner in most of the WTO negotiating areas. Cross-regional coalitions such as the G-20 and the G-33 have also displayed a relatively high degree of group cohesiveness with respect to the issues on which they choose to be active. Intra-group coalitions, such as the G-90, however, often refrain from taking common positions on issues where their component groups may have differing perspectives.

This suggests that coalitions with a diverse and vast constituency – whether cross-regional or inter-group – have the tendency of participating more actively on issues in which exists a previous general common understanding and abstaining from sensitive issue-specific negotiations in which consensus would be much harder to achieve. In addition, the greater cohesiveness shown by regional coalitions across virtually all the negotiating areas in the

WTO suggests that greater levels of similarities among group members result in improved group cohesiveness and negotiating weight.

Coordination and Leadership

As a result, more emphasis is now generally placed into establishing and maintaining stable and sustainable intra-group coordination mechanisms, whether through a systematized system of rotating group coordination, or through group acceptance of a member taking on the coordination functions of the group. Group cohesiveness has become a key priority in terms of coalition-building.

Rotating group coordination mechanisms remain the primary mode for group leadership of the African, ACP, and LDC Groups. The task of coordinating the overall actions and positions of the members of these groups is rotated among group members who are both willing and able to provide the necessary human, administrative and logistical resources in their missions in Geneva for such coordination. Overall group coordination is usually done by the ambassador of the country acting as the coordinator, supported by the Geneva-based staff of his or her mission. The task of coordination is made easier through the practice of selecting “issue focal points” – basically another member of the group willing and able to take the lead for the group on specific negotiating issues by assigning one of their technical-level experts or delegates in the Geneva missions to take charge of suggesting, formulating and coordinating group positions and actions on such specific issues.¹¹⁰

On the other hand, other coalitions agree on having specific members provide both coordination and leadership functions. In their case, strong leadership by some members of the group coupled with willing acceptance of such leadership on the basis of perceived commonalities of interest is seen as essential in ensuring group success, especially in the case of the bloc-type or issue-based groups. For example, the leadership roles of Brazil and India ensured that the G-20 would not collapse after the Cancun Ministerial Conference. In the case of the G-33 (the “Strategic Products/Special Safeguard Mechanism (SP/SSM) group), the leadership of Indonesia and the Philippines were and continues to be instrumental in keeping the group together.

Developing countries are now more conscious about engaging effectively with other developing country groups to form mutually supportive ad-hoc inter-group alliances. For example, the G-90 (composed of the African, ACP, and LDC Groups) has become the vehicle of choice among many developing countries belonging to these groups to express common views from a position of numerical strength at critical times of the WTO negotiations – together with the G-20, SVEs, and the G-33, these become the G-110.

During the Cancun Ministerial Conference, the stated position of the G-90 coupled with the stance taken by another group of developing countries (which also included the LDCs and the CARICOM as well as Bangladesh, Botswana, China, Cuba, Egypt, India, Indonesia, Jamaica, Kenya, Malaysia, Nigeria, Philippines, Tanzania, Venezuela, Zambia and Zimbabwe) against the launch of negotiations on the Singapore issues that “prompted the Cancun Ministerial Conference Chair, Mexican Foreign Minister Derbez, to declare that no consensus could be reached and that the Conference should therefore be closed.”¹¹¹

¹¹⁰ For example, in the trade facilitation negotiations, while the over-all African Group coordinator for 2007 is Uganda, the African Group focal point on trade facilitation is Morocco. For the LDCs group, the overall coordinator is Bangladesh, while the trade facilitation focal point is Nepal.

¹¹¹ Bernal et al., at 22.

More recently, in July 2007, the G-90 together with the NAMA-11 were vocal in stressing that modalities paper for the NAMA negotiations suggested by the NAMA Negotiating Group Chair, Canadian Ambassador Donald Stephenson, did not reflect the concerns that developing countries have been raising and that it, therefore, did not constitute a good basis for the NAMA negotiations to go forward. The G-90's component groups – the African, ACP, and LDCs Groups – also worked together with the Core Group of Developing Countries on Trade Facilitation in ensuring that issues of primary interest to developing countries in the trade facilitation negotiations – e.g. technical assistance and capacity-building and special and differential treatment – would remain at the forefront of such negotiations.¹¹²

Issue and Agenda Articulation

The recognition that coalition-building may work best in situations where the group constituents share common and clearly articulated perspectives on specific issues resulted in an adaptative move on the part of developing countries to develop issue-based coalitions. Their articulation of their positions on specific issues has also become more strategic. For example, developing country coalitions are now generally both defensive (in the sense of responding to perceived negotiating pressure from other Members) and proactive (in the sense of seeking to advance a specific negotiating agenda) in their areas of interest – e.g. the G-20 that was formed during the Cancun Ministerial Conference has a clearly articulated agenda containing both defensive and proactive elements in the context of the WTO agriculture negotiations.¹¹³

Naturally, coalition entry and participation would be very high in negotiations that correspond to specific issues lobbied by issue-based coalitions. This is reflected in the fact that issue-based coalitions of developing countries in the WTO tend to have as prominent or an even greater role as regional or cross-regional groups. The historical experience in the WTO has been that issue-based coalitions were not only active but also managed to play an influential role in agenda-setting in most of negotiations in which they were active. That is the case of the G-33 in the agriculture negotiations in which it made sure that the definition of SP and SSM issues would be based on the G-33's proposals; the G-20 also in the WTO agriculture negotiations in which it plays a key role in the negotiations over the tariff reduction formulas and the appropriate disciplines to be placed with respect to domestic and export subsidies in agriculture; the Cotton-4 on in putting on the agriculture negotiating agenda the issue of cotton subsidy elimination; the NAMA-11 in the WTO NAMA negotiations on virtually all issues (except with respect to tariff flexibilities); the Paragraph 6 countries on NAMA in terms of agenda setting in the flexibilities issue; and the Core Group of Developing Countries in the WTO trade facilitation negotiations (in terms of ensuring that the issue of special and differential treatment and of technical assistance and capacity-building are integrated into the negotiations).

These issue-based coalitions were successful in ensuring that, at least terms of setting the agenda and shaping the ensuing debate, their perspectives would be among those that needed to be considered. This indicates that having commonly-agreed perspectives that are then clearly articulated for inclusion in the negotiating agenda improves the level of influence that these groups have in terms of agenda-setting. An interesting fact regarding developing

¹¹² See e.g. submissions by these groups to the Negotiating Group on Trade Facilitation – i.e. TN/TF/W/56 (African Group); TN/TF/W/73 (ACP Group); TN/TF/W/95 (African Group); TN/TF/W/142 (Core Group); and TN/TF/W/147 (Core Group, African Group, ACP Group, and LDC Group).

¹¹³ See e.g. Rajesh Aggarwal, *Dynamics of Agriculture Negotiations in the World Trade Organization*, 39:4 *Journal of World Trade* 741-761 (2005), pp. 748-749.

country issue-based coalitions in the WTO is that they are active mainly in specific forums and mostly only on the issues with which they are concerned.

Working Relationships

Finally, the working relationships of individual delegates with each other also play an important role in developing country coalition-building and cohesion. While the decision to join a particular group – especially an issue-based coalition – is a political decision that is made by the capital-based decision-makers (e.g. the trade minister) of the country concerned, such decision is often based on the recommendations of their delegations in Geneva. In this regard, the personal and working relationships and contacts that these delegations have with each other play an important role in shaping the decision to join a coalition or not. Just as important is the role that shared personal perspectives and experiences on certain issues may have in encouraging delegations to work with each other.

For example, in many cases, developing country delegates often find it much easier to relate to each other on a personal and working level than with their developed country counterparts – whether because of common negotiating experiences or shared perspectives about issues. This engenders mutual confidence and positive inter-personal dynamics with each other, and makes it easier for them to work together in ensuring that intra-group and inter-group dynamics are made smoother. This is not to say that differences do not exist among developing country delegations on both a personal and working level, or that intra- and inter-group developing country dynamics are free of friction and disagreements. Such differences and friction do exist, but resolving or surmounting these are often made easier because delegates – especially when they come from the same region or when they perceive that they have common interests with respect to certain development issues such as special and differential treatment – may then find it easier to find bases for common agreement and action.

Strengthening Group or Coalition Action: Obtaining External Support

Developing countries are now more aware of the need to ensure that their negotiating positions are supported by arguments grounded on a good body of research, data analysis, and intra-group information sharing, whether done by their members or else provided by external institutions supportive of their positions. This research and analysis becomes the basis for more strategic approaches to negotiating strategy.

Many developing country coalitions are now also including a more proactive approach to engaging with external actors that can help them promote their issues such as international organizations, civil society, and international media. The G-33 and the G-20 have become more media-savvy, issuing press releases and making their spokespersons available when needed. They have become more open to having the support of civil society advocacy and campaigning organizations such as Oxfam, Action Aid, and Third World Network (TWN) on specific issues.

Much more use is made of the technical-level direct negotiating and policy research assistance made available by developing country intergovernmental organizations such as the South Centre.¹¹⁴ The Geneva-based support missions of regional organizations such as the

¹¹⁴ The South Centre is the only intergovernmental organization composed solely of developing countries which provides policy research and analysis and technical negotiating support to developing

African Union and the ACP Group of States also play important roles in supporting the work of these groups in the WTO negotiations. Support to various developing country groups, in various forms including the organization of workshops and the provision of substantive input, has also been sought and provided by other organizations such as UNCTAD, UNDP, the Commonwealth Secretariat, the UN Economic Commission for Africa (UNECA).

Civil society organizations with offices in Geneva such as the International Centre for Trade and Sustainable Development (ICTSD) and TWN also became resources, to varying degrees, which developing country groups could tap for substantive input.

But while external input and support are important for developing country groups, they are conscious of the need to ensure that such external support and input must be demand-driven and, on the basis of their own assessment, be consistent with their own negotiating interests and positions. The best form of technical policy input and support is one that is iterative and undertaken in close consultation with the group concerned, to ensure that such input meets the group's needs.¹¹⁵

d. Developing Country Groups and Coalitions as Governance Actors in the WTO

To summarize, there has been a distinct change in the negotiating dynamics among WTO Members. Developing countries have learned to work together in cohesive groups or coalitions based on their self-identified interests in a much better and more coordinated way as compared to, for example, the way in which they interacted prior to the Seattle Ministerial Conference in 1999. The development of more cohesive regional, cross-regional, common characteristic, and issue-based purely developing country groupings in the run-up to the 2003 Cancun Ministerial Conference was followed up by more consistent efforts on the part of these coalitions to work together more closely and in a more coordinated fashion both internally and with other groups. This trend is clearly reflected in the 15 November 2007 joint statement by the various major developing country-only groups in the WTO as follows:

The Ministers and Senior Officials of the G-20 and the coordinators of the G-33, the NAMA-11, the ACP Group, the Least Developed Countries (LDCs), the African Group, the Small, Vulnerable Economies (SVEs), and the Cotton-4 met in Geneva on 15 November 2007 to review the situation in the Doha Round and to discuss ways to enhance coordination among developing country groups on issues of mutual interest.

They welcomed the engagement and solidarity demonstrated by developing country groups. They noted that developing-country coordination and contribution increased the efficiency and legitimacy of the negotiating process. Developing countries have shown an unprecedented level of participation in this Round. They are ready to continue playing an active role in the WTO

countries in, inter alia, the WTO. It also supports developing country groups and coalitions in other international forums such as the World Intellectual Property Organization (WIPO) and UNCTAD. In the WTO negotiations, the South Centre has provided direct negotiating assistance and technical policy research and support to the African Group, ACP Group, LDC Group, SVEs, Paragraph 6 NAMA Group, NAMA-11, G-33, and the Core Group on Trade Facilitation.

¹¹⁵ For example, the use of technical policy input provided by the South Centre to various developing country groups such as the African Group, LDC Group, ACP Group, G-33, NAMA-11, and the Core Group of Developing Countries on Trade Facilitation, is completely at the discretion of the group concerned. The recipient may choose to accept, amend, revise, or disregard the input provided. For organizations providing such support, an iterative and consultative process with the intended group partner is therefore necessary.

commensurate with the growing importance of developing countries in international trade.

x x x

The Groups pledged to maintain the unity and cooperation among developing country groups. They reasserted their readiness to engage with other WTO Members with a view to achieving an outcome acceptable to all in the shortest possible time.¹¹⁶

The result has been a marked improvement in the extent of overall developing country participation in the WTO negotiations, albeit indirectly. And a stronger ability to influence WTO decision-making on the part of developing countries can be concluded from the fact that developing country issues now form part of the central negotiating agenda of the WTO.

2. Participating in the UN Conference on Trade and Development (UNCTAD)

The current role of developing countries in the UN Conference on Trade and Development (UNCTAD) is in some ways similar to that in the WTO, in the sense of these countries being seen as primary stakeholders whose consent to a decision is always needed, but in some other ways quite dissimilar to that in the WTO. This is not surprising considering that the WTO (including its institutional precursor, the GATT 1947) and UNCTAD were both separate historical institutional responses by the international community to the non-birth of the International Trade Organization (ITO).¹¹⁷

a. UNCTAD – An Attempt at Addressing Global Economic and Political Inequities

The history of UNCTAD and the extent of developing country cohesion and united action through the G-77 in the institution are closely linked. For one, UNCTAD I, despite opposition from developed countries, “produced two epochal results: (a) the establishment of UNCTAD itself as a permanent institution, and (b) the emergence of the Group of 77 as a united force of the developing countries.”¹¹⁸ In the early 1960s, growing concerns about the place of developing countries in international trade led many of these countries to call for the convening of a full-fledged conference specifically devoted to tackling these problems and identifying appropriate international actions.¹¹⁹ The first session of UNCTAD was held in

¹¹⁶ Joint Statement of the G-20, the G-33, the NAMA-11, the ACP Group, the LDCs, the African Group, the Small, Vulnerable Economies (SVEs), and the Cotton-4, 15 November 2007, at <http://www.tradeobservatory.org/library.cfm?refID=100810>.

¹¹⁷ The ITO, under the 1947 Havana Charter, was to be an institution with a wide mandate covering virtually all issues in the area of trade, employment and development. The trade rules and disciplines embodied in the GATT were to form the core of the ITO’s trade regime once the Havana Charter entered into force. Since the Havana Charter never came into force as a result of its non-ratification by the United States and other developed countries (who had objected to the inclusion of “non-trade” issues such as commodities, employment, and restrictive business practices, in the Charter), the GATT’s provisions continued to be applied provisionally by its contracting parties until the establishment of the WTO and the subsequent incorporation of the GATT into the WTO’s legal framework. To a large extent, the establishment of international principles, norms and rules in the other areas covered by the Havana Charter – e.g. investment, restrictive business practices, commodities, and development – were pursued within the UN system, especially by UNCTAD.

¹¹⁸ UNCTAD, *The History of UNCTAD: 1964-1984* (1985), p. 10.

¹¹⁹ UNCTAD, *A Brief History of UNCTAD*, available at <http://www.unctad.org/Templates/Page.asp?intItemID=3358&lang=1>.

Geneva in 1964 and, given the magnitude of the problems at stake and the need to address them, was institutionalized to meet every four years, with intergovernmental bodies meeting between sessions and a permanent secretariat providing the necessary substantive and logistical support.¹²⁰

UNCTAD has historically been an important institution for developing countries. During its first two decades (the mid-1960s to the mid-1980s), it was an interest articulator for developing countries in terms of “articulating, aggregating, and pressing their demands for a reshaping of the international political and economic environment to give them a role of increased importance on issues directly affecting their welfare ... [and] to structure political communication between themselves and advanced industrial states”.¹²¹ Another key role played by UNCTAD’s secretariat, at least during its early years, was to articulate an ideological alternative to the market-oriented economic theories that developed countries were then proposing:

In a much broader political communications context UNCTAD has played a crucial role in expounding a new ideological alternative to classic liberal trade theory for the conduct of international economic relations.¹²²

x x x

The elaboration by a universal international organization of a new, coherent conceptual framework for visualizing world economics is an important contribution of UNCTAD distinct from, yet complementary to, its role as an articulator and aggregator of specific demands on behalf of the LDCs.¹²³

i. Institutional Orientation as Systemic Critique of the Development Gap

UNCTAD came about as a result of growing concerns in the early 1960s by developing countries about their place in the international trade and economic system. These concerns led many of these countries to call for the convening of a full-fledged conference specifically devoted to tackling these problems and identifying appropriate international actions.¹²⁴

In its early decades (the mid-1960s and the 1970s), UNCTAD became preeminent among UN agencies in serving as the intergovernmental forum for North-South dialogue and negotiations on issues of interest to developing countries, including debates on the “New International Economic Order,” as well as for its analytical research and policy advice on development issues.¹²⁵

The late 1970s and the 1980s were a volatile period in terms of international economic arrangements. The excess capital generated from increased oil revenues by oil producing countries as a result of the oil price hikes in the 1970s were transferred to mostly developed country commercial banks, which in turn lent money on easy terms to developing countries. This laid the foundation for the debt crisis of the early 1980s, as throughout these years,

¹²⁰ Id. UNCTAD was created by virtue of UN General Assembly Resolution XIX (1995), 30 December 1964.

¹²¹ Robert S. Walters, *International Organization and Political Communications: The Use of UNCTAD by Less Developed Countries*, 25:4 *International Organization* (1971), p. 820 (hereafter Walters)

¹²² Id., at 826.

¹²³ Id. at 827.

¹²⁴ UNCTAD, *A Brief History of UNCTAD*, at <http://www.unctad.org/Templates/Page.asp?intItemID=3358&lang=1>.

¹²⁵ Id.

developing countries saw declines in their commodity prices and terms of trade, as well as persistent positive real interest rates, resulting in an increase in the share of real resources being absorbed by debt service. Moreover, reversals of commodity price trends did not appear likely (up to now, commodity prices still have not regained their pre-1970s levels in real terms), and negative real interest rates that had spawned earlier borrowings and kept many economies afloat were no longer a feature of the system. The debt crisis forced many developing countries to seek multilateral financial support from the Bretton Woods institutions, and submitted themselves to structural adjustment programmes that required them to change their trade and development policies, including exchange rate realignments, trade and investment regime liberalization, and other policy conditionalities based on the policy prescriptions of the Washington Consensus. The 1980s came to be known as the “lost decade” in terms of development.

As more developing countries changed, or were forced to change, their development policies to conform to the Washington Consensus model in order to try to adapt to and deal with the debt crisis of the 1980s, UNCTAD began to decline in terms of relevance for both developed and developing countries alike. Furthermore, UNCTAD itself was also institutionally under pressure from developed countries to change itself.¹²⁶

ii. Responding to Institutional Pressures

Through the 1980s, as international economic relations became more imbalanced (in terms of trade and economic influence) and the income gap increased between developed and developing countries, multilateral economic negotiations in UNCTAD between developed and developing countries became increasingly polarized, leading to a deadlock and to a decline of UNCTAD's role as a facilitator of consensus and conciliator of divergent views.¹²⁷ UNCTAD, its philosophical orientation, its analytical work, and the negotiations and debates taking place in UNCTAD were increasingly criticized and opposed by developed countries, who saw in UNCTAD a direct critique to the free market-oriented, Washington Consensus-based macroeconomic policies and international economic framework that they were then actively promoting.

Former UNCTAD Secretary General Rubens Ricupero has pointed out, with respect to the international political atmosphere in relation to international economic relations during the 1980s, that:

The assertion of the globalized economy coincided with the rise of the administrations of Thatcher in England and Reagan in the United States, unleashing a hostile attack on numerous previous proposals for redressing past injustices and reforming the international economy so as to make it more friendly to genuine, equitable human development. That was the case when the Reagan administration, at the Cancun Summit in 1981, definitely buried the so-called ‘Global Negotiations’ in the economic sphere encompassing finance, investment, and trade under the auspices of the UN. Subsequently, the field was laid open to the irrefutable rule of organizations more directly controlled by the

¹²⁶ For a discussion of how developed country pressure during the 1980s for management changes in UNCTAD resulted in UNCTAD's ideological shift away from providing systemic critiques of the world trade and economic system, see e.g. Kathryn C. Lavelle, *Ideas with a context of power: the African group in an evolving UNCTAD*, 39:1 *The Journal of Modern African Studies* (2001), pp. 39-40. (hereafter Lavelle)

¹²⁷ See UN, Note by the Secretary General – UNCTAD: Review of institutional and programme issues, A/51/152, 30 May 1996. For a copy of the report, see http://www.unjui.org/data/reports/1996/en96_01.pdf

developed countries: the IMF and the World Bank in matters related to money, finance and payments crisis in developing countries; and the GATT, superseded in 1995 by the WTO, in matters related to international trade. At the same time the developed countries' perspective has been actively promoted and coordinated by their own elite organizations, such as the OECD in matters related to development finance and the attempt to establish multilateral norms for international investment, as well as the G-7 or G-8 annual meetings on macroeconomic management and foreign exchange policy.¹²⁸

By the early 1990s, UNCTAD's orientation had shifted away from providing the systemic development-oriented critique of the prevailing international economic order dominated by developed countries, providing developing countries with the empirical analytical support, and serving as the North-South negotiating forum to adjust international economic relations, to an orientation that sought to focus on looking at how developing countries can best maximize the opportunities of globalization and as a forum for non-binding dialogue and consensus-building. The 1990s, in particular, "witnessed a drive by the major powers of the North to rollback the international development agenda, which had been laboriously crafted in the U.N. framework during the previous decades. They interrupted the North-South dialogue and effectively kept the issues of international economic environment and its impacts on development off the agenda."¹²⁹

The eighth session of UNCTAD in 1992 in Cartagena, Colombia, and the ninth session in Midrand, South Africa, were key turning points in UNCTAD's institutional history, when it institutionally became more open to the Washington Consensus paradigm and when the focus of UNCTAD's work became less of providing a systemic critique and suggesting alternatives to the imbalanced international economic system to one that generally accepted the system and the Washington Consensus-based policies on which it ran. This shift was the result of various factors which all marked the ascendancy of the Washington Consensus paradigm, among them:¹³⁰

- the severe economic disadvantage that many developing countries found themselves in after the commodities, trade and debt crisis of the late 1970s and 1980s weakened developing countries and made them open to accepting changes in their economic policies and orientation as a result of having to accept the Bretton Woods institutions' structural adjustment programmes; and
- the loss of the "socialist economic alternative" due to the rapid collapse of the Soviet Union during the late 1980s, and the acceptance and adoption by formerly communist states of Washington Consensus-based policy prescriptions to shift their economies onto a market-oriented footing.

¹²⁸ Rubens Ricupero, *Nine Years at UNCTAD: A Personal Testimony – Preface to UNCTAD, Beyond Conventional Wisdom in Development Policy: An intellectual history of UNCTAD 1964-2004* (2004), pp. xiii – xiv. (hereafter Ricupero)

¹²⁹ South Centre, *The Group of 77 at Forty: Championing Multilateralism, A Democratic and Equitable World Order, South-South Cooperation, and Development* (2004), p. 4. (hereafter G-77 at 40)

¹³⁰ A commentator, for example, has noted that "UNCTAD VIII took place in Cartagena de Indias, Colombia, during February 1992 against a background of dramatic and rapid changes in the global political and economic environment. The session was virtually free of the polemics and tensions between the East and the West and the North and the South that characterized earlier meetings. It reflected, instead, a broad consensus on market oriented economic policies and political pluralism. ... The byword at UNCTAD VIII, if any, was 'consensus building' and no longer negotiations." See e.g. Grant B Taplin, *Revitalizing UNCTAD, Finance and Development*, 1 June 1992, p. 1, at <http://www.allbusiness.com/government/312988-1.html>. (hereafter Taplin)

This shift in institutional philosophical orientation stemming from the 1992 Cartagena and 1996 Midrand sessions has not been without any costs for UNCTAD with respect to its relevance and utility for its major constituency, the developing countries, as a source for systemic critiques and ideas for alternatives, e.g.:

In proceeding along the road mapped out at the previous UNCTAD conferences in Cartagena (1992) and Midrand (1996), UNCTAD has witnessed an erosion of the political role originally assigned to it by the countries of the South. This is a loss in terms of both the approach taken in its activities -- especially in its intergovernmental activities -- and the areas in which it was previously active. It has almost lost its place as a negotiating forum making a fundamental contribution to the standard-setting efforts of the United Nations and other international organizations. In the sectors of commodities, debt and trade preferences, to name but a few, UNCTAD seems to have surrendered the central part of its mandate. In Cartagena, and in a meeting in Columbus trade efficiency came to the fore, while in Midrand the focus on enterprise development indicated that the role of UNCTAD was to be confined to national aspects of development¹³¹

This [shift] had an unfavourable impact on the collective action of the South. The Group was also deprived of important support given to it by UNCTAD in the past, which had served as a major source of ideas, analysis and synthesis, and offered the logistical support that was required. The resulting dearth of intellectual ammunition and data to reinforce G77 policy views and aspirations on a continuing basis affected its unity and negotiating stance, made it less effective vis-a-vis the developed countries' negotiators and in defending common interests, and was not conducive to its assuming initiatives and playing a proactive role in the world arena, as it did in earlier times.¹³²

During the GATT Uruguay Round negotiations from 1986 to 1994, as an example of the shift in UNCTAD's orientation, UNCTAD focused on assisting developing countries negotiate effectively through providing them with technical assistance and other negotiating support (which was also criticized by developed countries). In doing so, UNCTAD became unable to systemically critique the international trade system and the root causes for its imbalances, attempting instead to address only the symptoms of such imbalances.¹³³

The late 1990s, having been marked by financial crises brought about by the increasing level of unregulated cross-border financial flows (largely as a result of the financial and investment liberalization policies undertaken in the 1980s and early 1990s), severely affected developing countries in Asia and Latin America. African countries also fell further behind in terms of their development level.

¹³¹ Hassan Aboutahir, *From Marrakesh to Bangkok: The Group of 77 and China in Search of a New Consensus on Development*, 3:34 South Letter, 1999, at http://www.southcentre.org/southletter/sl34/sl34-03.htm#P129_29198 (hereafter Aboutahir)

¹³² G-77 at 40, *supra*, at 6.

¹³³ As an analyst pointed out: "The Uruguay Round cemented the direction of changing ideas at UNCTAD that the debt crisis had begun. Unlike the earlier Tokyo Round, the UNCTAD secretariat supported the Uruguay Round negotiations from their inception. The result was that the UNCTAD secretariat that emerged from the Uruguay Round acted as a 'coach' to developing countries in the new world economy. The role of coach, however, requires that the players and coach have agreed on the game to be played. Once UNCTAD took on this role, it could no longer serve as a voice for changing the structure of the international trading system. Hence, representatives lost a vehicle through which to express their views; they did not lose their views." See Lavelle, *supra*, at 42.

iii. Swinging Back to a Systemic Critique?

By the tenth session of UNCTAD in Bangkok, Thailand, in February 2000, a growing awareness of the limitations and pitfalls of the globalization process on the development prospects of developing countries and hence the need for a more critical approach to such process became reflected in the session's outcomes,¹³⁴ although UNCTAD's orientation continued to be "to secure the integration of developing countries, including the structurally weak, vulnerable and small economies and countries in transition, into the globalizing world economy and to reduce the risk of marginalization."¹³⁵

At UNCTAD's eleventh session in Sao Paulo, Brazil, in June 2004, UNCTAD was able to regain some of its role in providing a systemic critique when developing countries proposed and succeeded in obtaining an explicit reference to the concept of policy space in the context of globalization in the session's outcome document, the Sao Paulo Consensus.¹³⁶ A South Centre comment on UNCTAD XI's critique of globalization is as follows:

11. In terms of the policy analysis that constitutes a major part of the Sao Paulo Consensus, UNCTAD XI has joined an increasing number of critiques of the extent to which current process of globalization has failed to deliver on their promised benefits, especially to most developing countries and their poverty stricken populations.

12. Through the Sao Paulo Consensus, UNCTAD XI has recognized that the delivery of the benefits of the process of globalization has been unequal and that it has had, for many developing countries, adverse social impacts.

13. Furthermore, in a clear departure from past "development policies that have centred around greater openness to international market forces and competition and a reduced role for the state", UNCTAD XI states that the development process cannot be satisfactorily undertaken and its objectives achieved unless the role of the State in such a process is preserved. UNCTAD XI stresses that "[t]here is a need to strike a balance between the objectives of efficiency and equity. Both the market and the state have an important role to play in the development process, and it is essential to ensure that their respective roles are complementary." The role of the State is to ensure that development benefits are distributed equitably through sound development policies, strategies, infrastructure development, and regulatory frameworks.¹³⁷

While the Bangkok and Sao Paulo outcome documents are important political declarations by UNCTAD with respect to its institutional analysis of the international economic situation and relations, UNCTAD as an institution continues to face challenges – especially from the side of developed countries – in terms of providing a more clearly

¹³⁴ See UNCTAD, Bangkok Plan of Action, TD/386, 18 February 2000, para. 1-5

¹³⁵ *Id.*, para. 36.

¹³⁶ See UNCTAD, Sao Paulo Consensus, TD/410, 25 June 2004, para. 8. "Policy space", for UNCTAD XI, refers to "the scope for domestic policies, especially in the areas for trade, investment and industrial development." Essentially, it reflects the idea that governments should have the leeway to "evaluate the trade-off between the benefits of accepting international rules and the constraints posed by the loss of policy space." For a discussion of the concept and the negotiating history of policy space in UNCTAD XI, see e.g. South Centre, Operationalizing the Concept of Policy Space in the UNCTAD XI Mid-Term Review Context, SC/GGDP/AN/GEG/1, May 2006, at http://www.southcentre.org/publications/AnalyticalNotes/GlobalEconomicGov/2006May_PolicySpaceUNCTADXI.pdf

¹³⁷ South Centre, Operationalizing the Concept of Policy Space in the UNCTAD XI Mid-Term Review Context, SC/GGDP/AN/GEG/1, May 2006, paras. 11-13.

articulated systemic critique and alternatives to the prevailing international economic system, taking into account the new global economic geography of a resurgence in developing country economic influence and political unity.

As UNCTAD prepares for its twelfth session in April 2008 in Accra, Ghana, a major focus of the intergovernmental negotiations among UNCTAD's member States will be on the extent to which the critique of the current international economic system coming out from UNCTAD X and XI, as well as UNCTAD's institutional ability to undertake and act on such critique, will be further strengthened. As of this writing, the UNCTAD XII negotiating text shows evidence of a brewing fight at the conference between the developing and developed countries over such critique.¹³⁸

What is at stake at UNCTAD XII is whether UNCTAD can be restored to its role in areas of interest to developing countries and reclaim its place in the international context. UNCTAD's challenge is to regain its relevance to developing countries in terms of providing them with the analysis and tools needed to enable them to understand the systemic challenges and opportunities that they face in their pursuit of development. UNCTAD should be able to make a major contribution to what is known as "global governance" or "global public policy", especially in the area of trade, investment, transfer of technology and sustainable development. It should be at the forefront in the search for coherence in economic and social policies, at both the intergovernmental and inter-institutional levels.

UNCTAD has, over the years, contributed much to shaping international economic policies.¹³⁹ UNCTAD's work "giving much-needed empirical documentation to the [developing countries'] position on controversial development issues" has also resulted in other organizations addressing international economic problems (such as the Bretton Woods institutions and the GATT) having to respond to and take into account developing country positions and perspectives.¹⁴⁰ However, much of its pro-active energy in terms of negotiating binding agreements became spent by the late 1980s as the divisions between the G-77 and developed countries became more politicized and polarized. By the 1990s, UNCTAD had lost its negotiating mandate, turning instead to coming out with non-binding consensus declarations and a secretariat work programme focused mainly on a less systemic and critical research agenda and on providing technical assistance to developing countries to improve their integration into the existing international economic system.

¹³⁸ See UNCTAD, UNCTAD XII pre-Conference negotiating text: Chair's text containing amendments proposed by the Preparatory Committee on first reading, as amended on second reading (as far as para. 121), UNCTAD/IAOS/MISC/2007/30, 21 December 2007.

¹³⁹ These included, for example, the agreement on the Generalized System of Preferences in 1971; the setting up of the Global System of Trade Preferences Among Developing Countries in 1989; the adoption of the Set of Multilaterally Agreed Principles for the Control of Restrictive Business Practices in 1980; the negotiation of conventions in the area of maritime transport: United Nations Convention on a Code of Conduct for Linear Conferences (1974), United Nations Convention on International Carriage of Goods by Sea (1978), United Nations Convention on International Multimodal Transport of Goods (1980), United Nations Convention on Conditions for Registration of Ships (1986), United Nations Convention on Maritime Liens and Mortgages (1993). For a good listing of UNCTAD's key achievements, please see UN, Note by the Secretary General – UNCTAD: Review of institutional and programme issues, A/51/152, 30 May 1996, para. 13-14. For a copy of the report, see http://www.unjui.org/data/reports/1996/en96_01.pdf

¹⁴⁰ Walters, *supra*, at 828-830.

b. UNCTAD Intergovernmental Processes

As a body of the UN General Assembly, UNCTAD currently is governed and operates through parliamentary diplomacy rather than serving as a permanent negotiating forum such as the WTO.¹⁴¹ Its current Rules of Procedure (for the sessions of the Conference) were revised in 1997, and provides, among other things, for a two-tier system of voting – i.e. on matters of substance, the requirement is a 2/3 majority of members present and voting (Rule 50:1), while on matters of procedure, the requirement is a simple majority of members present and voting (Rule 50:2). However, while voting was a major decision-making mechanism in UNCTAD during its first two decades, UNCTAD’s main mode of decision-making is now by consensus rather than voting as a result of the decision taken at UNCTAD VIII in 1992 for UNCTAD to promote consensus-building rather than negotiations.

The meetings of UNCTAD’s major bodies – e.g. the Conference and the Trade and Development Board – are recorded even when they are declared to be “private”,¹⁴² and the records distributed to the members, a distinct contrast to the practice in the WTO of having its informal meetings be off the record. This has generated much greater internal transparency for UNCTAD Member States as compared to the WTO. Coupled with the long-standing use of the group system as a means for intergovernmental interaction within UNCTAD, there has traditionally been much more informed and systematic developing country participation in UNCTAD’s governance processes as compared to the GATT or the WTO.

In many ways, the imbalances among the political power and influence among different countries that exist in the WTO as a result of the use of informal processes seem to have been much less evident in UNCTAD, especially during its first two decades and, it seems, is becoming so again in recent years mainly as a result of: (i) the use by developing countries of group-based dynamics; and (ii) relatively greater transparency in terms of the processes used in UNCTAD.

c. The G-77 in UNCTAD: Governance Adaptation and Ideational Shifts by Developing Countries

Group-based dynamics have had a long history in terms of UNCTAD’s intergovernmental processes. Negotiations in the various UNCTAD conferences historically (at least until the late 1990s) were not carried out by individual countries but by groupings of countries acting together with a common platform and a main spokesperson.

Developing countries have historically participated in any negotiations – e.g. on international commodity agreements, the ministerial declaration of the UNCTAD conferences, etc. – through the vehicle of the Group of 77 and China’s (G-77 and China)

¹⁴¹ Nominally, UNCTAD’s procedures are governed by its Rules of Procedure (TD/63/Rev.2). The Rules of Procedure for UNCTAD’s Trade and Development Board (TD/B/16/Rev.4) are different from those of the Conference, notably, for example, in the fact that TDB decisions “shall be made by a majority of the members present and voting”(Rule 50:1).

¹⁴² UNCTAD Rules of Procedure, Rules 74 and 75; UNCTAD TDB Rules of Procedure, Rules 69 and 71. Of course, there are also UNCTAD “informal” intergovernmental processes which are off the record. The difference between UNCTAD “informals” and those of the WTO is that in the former, the identity of the participants are always known and generally inclusive of the main governance actors – i.e. the G-77, the EU, the US, and Group D are always represented – as a result of the institutional structure of UNCTAD, while in the latter, the basis for participant selection was (at least until lately) often exclusionary, ad hoc, and based primarily on the organizer’s subjective prerogatives.

Geneva chapter. The members of this chapter include all the current 132 G-77 members¹⁴³, including China. Developed countries operated through, while Group D was composed of the then-socialist countries within the Soviet Bloc. These blocs continue to exist and play major roles in today's UNCTAD, although with some more recent permutations in that European Union (EU) member States also tend to speak as a bloc (both within and outside of Group B), while Group D's current membership also includes countries that are now EU member States.¹⁴⁴

i. The G-77 and UNCTAD: Birth Twins

The G-77 as an intergovernmental developing country coalition was formed on 15 June 1964 by seventy-seven developing countries that were signatories of the "Joint Declaration of the Seventy-Seven Countries"¹⁴⁵ issued at the end of the first session of UNCTAD in Geneva. It originated from the "merger of Afro-Asian countries (Group A) and Latin American countries (Group C) for the purpose of UNCTAD negotiations."¹⁴⁶

Beginning with the first G-77 ministerial meeting in Algiers in October 1967, the G-77 gradually developed a permanent institutional structure that eventually led to the creation of Chapters of the Group of 77 in Geneva (UNCTAD), Nairobi (UNEP), Paris (UNESCO), Rome (FAO/IFAD), Vienna (UNIDO), and the Group of 24 (G-24) in Washington DC (IMF and World Bank). Although the members of the G-77 have since increased to 132 countries, the original name was retained because of its historic significance."¹⁴⁷

The philosophical underpinnings for the G-77's creation were described in a South Centre study as follows:

The formation of the Group in 1964 was a manifestation of the underlying need for collective action of the developing countries in the world arena. Among the basic reasons for such action were:

- To change the status quo and the inequitable world system which issued out of the colonial and imperialist age.
- To seek empowerment and overcome marginalization through negotiating collectively and using political power and the moral authority of their numbers.
- To advance new values and principles, and a global development strategy, as a centre piece of the socio-economic agenda of the United Nations, which would assist them in their development process, including with the direct help of the economically advanced countries.
- To promote links and cooperation among themselves, as an opportunity for development and for leveraging their influence on the global scene.

¹⁴³ See <http://www.g77.org/doc/members.html> for the list of G-77 members.

¹⁴⁴ The Group designations come from the lists of States contained in the Annex to UN General Assembly Resolution 1995 (XIX) which created UNCTAD. The G-77 and China includes those States which fall under Group A (Africa, Asia and the Pacific) and Group C (Latin America and Caribbean). The latest membership lists for each Group can be found in UNCTAD, Membership in UNCTAD and membership of the Trade and Development Board, TD/B/INF.209, 19 October 2007, at http://www.unctad.org/en/docs/tbinf209_en.pdf.

¹⁴⁵ See <http://www.g77.org/doc/Joint%20Declaration.html>.

¹⁴⁶ Keisuke Iida, *Third World Solidarity: the Group of 77 in the UN General Assembly*, 42:2 International Organization (Spring 1988), pp. 386. (hereafter Iida)

¹⁴⁷ See <http://www.g77.org/doc/index.html>.

- To strengthen the United Nations organization and contribute to promoting the values of global democratization and multilateralism for which it stands.

While the G77 was focused on economic and social issues, the Non-Aligned Movement (NAM), which was created in 1961, acted in the political domain and challenged the existing world political order, including the confrontation between the military blocs and the dangers of this for world peace. The basic values promoted by NAM, in particular sovereign equality and non-aggression, peaceful coexistence, mutual cooperation, solidarity and disarmament, were intimately linked to those championed by the G77 in the economic-social sphere.¹⁴⁸

Another observer of the G-77's beginnings described it as follows:

The basis for the 77 was their shared interest in rising above the peripheral and unfavorable position which they occupied in the world economy, and their common approach to world economic problems. ... The Group of 77 was born as an ad hoc group of co-sponsors of the 1963 declaration, but soon evolved into a permanent instrument to systematically articulate the demands of the developing countries, and to improve their negotiating capacity; its unity was cemented by the intransigence of developed countries at the Geneva Conference.¹⁴⁹

From its origins with the birth of UNCTAD, the G-77 has now become the premier intergovernmental developing country group working together within the UN system, being very active on most issues being discussed within the UN.¹⁵⁰ It “provides the means for the countries of the South to articulate and promote their collective economic interests and enhance their joint negotiating capacity on all major international economic issues within the United Nations system, and promote South-South cooperation for development.”¹⁵¹

The various G-77 chapters have some common operational features, such as having the same organizational set-up. A chapter chairman, serving for a year, coordinates the work of the chapter and the position of chairman rotates among the G-77's three regional groups – Africa, Asia, and Latin America and the Caribbean. A country does not normally chair more than one chapter at a time. The chapter chairs try to meet at least once a year to coordinate the work of their respective chapters with each other. The South Summit, which convenes once every five years (with the next one in 2010), is the G-77's highest decision-making body, while ministerial-level meetings by the foreign affairs ministers of the G-77 take place annually at the start of the regular session of the UN General Assembly. Special or sectoral ministerial meetings of the G-77 may also take place.

The G-77 has become a key institutional international actor that carries great political weight. It displays institutional features such as some norms, regularity of interaction, and formal rules of procedure. These were analyzed by an author as follows:

First, although they are somewhat weak, some norms seem to be emerging. Members consider documents such as the Declaration of the Group of 77 in

¹⁴⁸ G-77 at 40, *supra*, at 2.

¹⁴⁹ Branislav Gosovic, *UNCTAD Conflict and Compromise: The Third World's Quest for an Equitable World Economic Order through the United Nations* (1972), p. 272. (hereafter Gosovic)

¹⁵⁰ While it focused on UNCTAD for from the mid-1960s to the mid-1970s, by the late 1970s and early 1980s, the G-77 had become very active in New York as it started tackling more and more issues there. From the mid-1970s, the G-77's “center of activity ... shifted from Geneva to New York.” See Iida, *supra*, at 386.

¹⁵¹ G-77 at 40, *supra*, at 2.

1964 and the Declaration and Programs of Action for a New International Economic Order in 1974 as frames of reference. Also, there seems to be a weak norm against defection. One diplomat described the Group's decisions as 'gentleman's agreements.' While there is no mechanism for sanctions against defections, a member's reputation suffers if it fails to cooperate in open forums.

Second, interactions among Group members have become extremely frequent and regularized. ... Also since the mid-1970s, the weight of the Group's coordinator in New York has increased. Rotating annually, the coordinator disseminates information and helps unite the different positions of different countries and regions.

Third, the rules and procedures of the Group are becoming more explicit and formalized. Especially noteworthy is consensus decision-making. Since its inception, most of the Group's decisions had been made without a vote. Final decisions had to await the approval, or at least acquiescence, of most members. This procedure was made explicit at the time of the Fourth Ministerial Meeting in 1979, when a new provision stated that 'all decisions of the Meeting shall be taken by consensus.'¹⁵²

x x x

The Group of 77 as an institution provides a framework for reciprocal coordination of policy positions. First, it creates expectations of permanent interactions, making the shadow of the future loom large. Second, frequent meetings provide the Group's members with ample information about the issues and policy preferences of other members. Third, there is a norm against defection. Fourth, consensus decision-making gives a sense of participation to otherwise alienated LDCs. Fifth and finally frequent interactions create a sort of esprit de corps among the participants in Group decision-making. Research by Harold Jacobson et al. reports that consultations with other LDCs influences Third World negotiators when they determine their countries' positions at multilateral forums. If so, the negotiators, on their part, might influence their countries to take positions consistent with the Group position.¹⁵³

A serious institutional shortcoming that the G-77 has faced and continues to face in the context of its operations and its policymaking is that it has no real secretariat of its own to provide it with substantive policy analysis and technical support on a day-to-day basis. Instead, each chapter would be supported by a generally small logistical liaison unit hosted by or in the main UN agency in which the chapter is active – e.g. UNCTAD in Geneva, UNEP in Nairobi, UN Headquarters in New York, UNESCO in Paris, UNIDO in Vienna. Substantive policy research and analytical support on specific issues handled by each chapter would be done by the permanent mission staff of the chapter's coordinator, by individual delegates of G-77 members on an ad hoc basis, or by other agencies on a demand-driven basis (e.g. UNCTAD, the South Centre, NGOs).¹⁵⁴

¹⁵² Iida, *supra*, at 387. See also Gosovic, *supra*, at 286, stating that "two rules of behavior came into force [for the G-77]. First, all proposals had to be cleared by the Group of 77 before they were thrown into the wider arena of negotiations with the developed countries. Secondly, all proposals had to be unanimously endorsed by all members of the group; consequently, if a country, or a group of countries, opposed a proposal, it would remain under consideration until consensus was achieved."

¹⁵³ *Id.*, at 388.

¹⁵⁴ In this regard, while the South Centre, while being an intergovernmental thinktank for developing countries, is mandated by its treaty to "respond to requests for policy advice, and for technical and other support from collective entities of the South such as the Group of 77 and the Non-Aligned Movement", it does not serve as the secretariat for the G-77 nor the Non-Aligned Movement (NAM). For more information on the South Centre, please see <http://www.southcentre.org>.

ii. The G-77 as Governance Adaptation to Systemic Imbalances

In some ways, the establishment of the G-77 in UNCTAD and their ability to generate and push cohesive and united negotiating positions was both the effect and cause of developed country actions. Developing countries in the early 1960s (especially from Africa and Asia) were becoming increasingly frustrated at the way in which developed countries were not responding favorably to their requests for increased levels of international cooperation to restructure global economic relations to promote the development of developing countries. As a result, they felt that only a united and cohesive front vis-à-vis developed countries could enhance their leverage and effect changes in terms of their economic relations with developed countries. This eventually led to the creation of the G-77. During and after UNCTAD I, as the G-77 started operating and presenting cohesive and united group positions, developed countries started responding by also adopting joint negotiating positions that were previously discussed and coordinated through their organization, the Organisation for Economic Cooperation and Development (OECD).¹⁵⁵

The creation of the G-77 was initially welcomed by developed countries because “by assuming common positions greatly facilitated, to the advantage of both developed and developing countries, the process of negotiation in UNCTAD.”¹⁵⁶ A US representative in Geneva at the time was quoted as saying “...at least you know exactly what you are dealing with. It clarifies the demand side of the picture”.¹⁵⁷

From the 1960s through the 1970s, taking “a moral ‘high ground’ against the imperialism of the West ... [w]ith an ideology based on notions of exploitation of poorer countries by wealthier ones, and unequal exchange between rich and poor in the face of market forces, the G77 argued for a ‘New International Economic Order’ (NIEO), which would restructure the entire trading system for the betterment of the coalition.”¹⁵⁸ Developing countries saw UNCTAD as a forum that “would have some quasi-legislative traits and make at least certain decisions – however they might be called – that would commit the developed countries to a given course of action.”¹⁵⁹ However, developed countries “tended to regard the UNCTAD forums as deliberative meetings where countries could exchange viewpoints and engage in general discussions” in which “the decisions made through this process [were] irrelevant to themselves (in contrast to the GATT negotiations) and possessing at best a declaratory value.”¹⁶⁰

¹⁵⁵ For a discussion of the cause-and-effect dynamics with respect to the creation of group negotiating positions by the G-77 and Group B in UNCTAD during its early years, see e.g. Walters, *supra*, at 825, stating that “the cohesion between the LDCs forced the advanced Western states to aggregate their interests, largely through the, in responding to the aggregated demands facing them in UNCTAD”; and Gosovic, *supra*, at 269, stating that “[t]he behavior of the 77 at the Geneva Conference brought about counter-measures by the western countries, which also began to take up joint negotiating positions in an attempt to shield themselves from the assault by the developing countries” ; and Boutros Boutros-Ghali, *Reinventing UNCTAD*, South Centre Research Paper 7, July 2006, p. 2 (hereafter Boutros-Ghali), stating that “the aggregation of the demands of developing countries through the mechanism of the Group of 77, triggered aggregation of responses by developed countries through the OECD.”

¹⁵⁶ Boutros-Ghali, *supra*, at 2

¹⁵⁷ *Id.*

¹⁵⁸ Lavelle, *supra*, at 25.

¹⁵⁹ Ricupero, *supra*, at xiii.

¹⁶⁰ Boutros-Ghali, *supra*, at 2.

iv. The G-77 as the Developing Country Negotiating Group in UNCTAD Coordination and Leadership

In the context of UNCTAD in Geneva, the leadership and actual coordination of the work of the G-77 Geneva chapter is done by the chapter chair – usually the ambassador and his/her team in their Geneva permanent mission of the country selected to be the chapter chair for that year. As pointed out above, the responsibility to coordinate the chapter rotates annually among the members on the basis of their regional origin – i.e. Africa, Asia, and Latin America and the Caribbean.

A feature that is particularly strong in the G-77 Geneva chapter (it has other chapters in New York, Nairobi, Rome, Paris, and Vienna¹⁶¹), which covers the various UN agencies in Geneva (including UNCTAD and other specialized agencies such as WIPO and WHO) is its regional coordination system, in which each region selects their own regional coordinator who would then work together with the chapter coordinator. This provides each region with the ability to first internally negotiate and agree upon their regional position, which their regional coordinator would then discuss with the other regional coordinators and the chapter coordinator in order to come up with the overall G-77 position. On the other hand, this makes intra-group decision-making slower and less efficient, although indirectly more inclusive and participatory.

The G-77 Geneva chapter's regional coordination mechanism also does not prevent it from making decisions as a whole, nor prevent any of the G-77's members from raising issues individually that may not have been covered or raised by the relevant regional group.¹⁶² Finally, specifically in the context of UNCTAD, the G-77 also includes States which are not members of the G-77 in other chapters such as in New York because for the purposes of UNCTAD intergovernmental processes, the G-77 is composed of the Member States that are listed in Lists A and C annexed to UN General Assembly Resolution 1995 (XIX).¹⁶³

Institutional leadership within the G-77 is also often a function of different factors. These include economic strength and size; having clear political objectives; having a defined program, technical preparedness and a delegation with clear instructions; specialization in a particular issue; membership in a formal UNCTAD body such as the Trade and Development Board; having a competent permanent mission in Geneva; the personality, individual skills, and negotiating diplomatic flexibility of their delegates.¹⁶⁴ These factors generally militate against any one country acting conspicuously as “the” G-77 leader, which essentially means that leadership in the G-77 context – i.e. the ability to have a certain degree of political and intellectual influence in shaping G-77 positions – often comes from individual countries in the context of their influence in their regional groups.¹⁶⁵ On the other hand, especially during the first two or three decades of UNCTAD, Group B had internal leadership dynamics that,

¹⁶¹ The G-77 also has a special chapter in Washington DC established in 1971 dedicated to tackling monetary and development issues being covered by the World Bank and the International Monetary Fund. This chapter is called the G-24 (the Intergovernmental Group of 24). Its members include: Africa -- Algeria, Côte d'Ivoire, Egypt, Ethiopia, Gabon, Ghana, Nigeria, South Africa and the Democratic Republic of Congo; Asia -- India, Iran, Lebanon, Pakistan, Philippines, Sri Lanka and Syrian Arab Republic; Latin America and Caribbean - Argentina, Brazil, Colombia, Guatemala, Mexico, Peru, Trinidad and Tobago and Venezuela. China participates in the G-24 as a “special invitee”. See www.g24.org.

¹⁶² For a discussion of how the G-77 Geneva's regional groups operated during the early years of UNCTAD, see Gosovic, *supra*, at 273-275.

¹⁶³ These lists can be found at http://www.unctad.org/en/docs/tdbinf209_en.pdf.

¹⁶⁴ See e.g. *id.*, at 276-279.

¹⁶⁵ See *id.*, at 278-279.

while also reflecting internal differences, were subject to the leadership and authority of the major developed countries.¹⁶⁶

Issues, Agenda Articulation, and Working Relationships

Based on its philosophical orientation, understanding of the systemic imbalances in the international economic order, and views on the institutional role of UNCTAD, the G-77's negotiating positions during the hey-day of UNCTAD's years as a negotiating forum were often maximalist – that is, based on the maximum common denominator of demands from G-77 members. This also enabled the G-77 to maintain group cohesion despite their internal differences that formed the internal context for the development of G-77 negotiating positions from its early years.

Of course, as may be expected from a coalition the size of the G-77, with a membership of countries that have widely varying economic policies, development conditions, and economic and political ties to developed countries, a major aspect of the G-77 coordinators' job is to try to mediate and settle the differences among the G-77's members in order to arrive at a common position. These differences were of three main types, as an observer pointed out: "(1) those that are political and ideological in nature, (2) those between the more and the less advanced countries in the group, and (3) those resulting from the links of certain developing countries with certain developed ones."¹⁶⁷

An account of how the G-77 sought to manage their internal negotiations is as follows:¹⁶⁸

In elaborating general demands and principles, the Group of 77 encounters no serious difficulties. But to work out more specific proposals and to take the interests of various countries into account is something else again. When there are conflicting interests among the factions within the group, there is a tendency toward 'splitting the differences.' ... The 'splitting of differences' is amore logical mode of conflict resolution than is the 'minimum common denominator', since both sides are likely to benefit, and since it is in their mutual interest to arrive at an internal solution.

Conflicts within the group which relate to the question of how a given demand is to be formulated are, in most instances, resolved on the basis of the maximum common denominator. This is especially the case with complex proposals; they are made up of several components in which different countries exhibit a greater or lesser amount of interest. The sum of the specific demands results in a

¹⁶⁶ Id., at 298, stating that "[t]he decision-making process in the B Group differs in some important respects from that in the Group of 77. The OECD secretariat contributes to the planning, organization and efficiency of the B Group meetings. The relatively small membership makes the process easier to manage and more rational. Little time is expended on procedural matters, personality clashes are less obvious, and they interfere less with the group proceedings. Delegations are well prepared, their specialist level is generally high, and they usually have clear and firm instructions from their respective governments. ... There is a definite structure of authority within the group ... The smaller countries rarely express jealousy toward the leaders ... Actually, the feeling could be characterized as one of resignation." For more discussion of Group B's internal dynamics at that time, see id., at 293-301. See also Ricupero, *supra*, at xiv, stating that "the developed countries' perspective has been actively promoted and coordinated by their own elite organizations, such as the OECD in matters related to development finance and the attempt to establish multilateral norms for international investment, as well as the G-7 or G-8 annual meetings on macroeconomic management and foreign exchange policy."

¹⁶⁷ Gosovic, *supra*, at 279.

¹⁶⁸ Id., at 289-290.

maximum common denominator proposal. Many additional factors are responsible for this type of consensus formation within the group, and for maximizing the demands raised vis-à-vis the developed countries. For example, there is the classical bargaining element of 'over-stating the claim' in order to obtain the maximum possible concession. The 77 are generally unwilling to compromise the goals and general principles elaborated in 1964. They have a strong preference for 'universal' solutions (i.e. those requiring action by all the developed countries, and intended to benefit all the developing countries), and they perceive the entire negotiating process with the West as one thesis prevailing against another.

The maximizing of demands and a rigidity in position tend to be more pronounced on matters of principle and on issues of global impact involving the majority of developing countries; conversely, of course, the degree of flexibility is greater when a functionally specific issue is under consideration, for example, the sugar agreement or supplementary financing. Moreover, when a global issue or a matter of principle is considered with a view to implementation, the 77 tend to assume a more flexible and conciliatory attitude.

Group D (the then-socialist countries led by the former Soviet Union) often tended to support the G-77's negotiating positions.¹⁶⁹ On the other hand, developed country negotiating positions (i.e. Group B positions) often tended to crystallize "along the lowest common denominator."¹⁷⁰ As a result, since the groups do their internal negotiations first before undertaking inter-group negotiations, "rigid maximal demands confront rigid minimal concessions".¹⁷¹

¹⁶⁹ See e.g. Ricupero, *supra*, at xiii, stating that "[t]he socialist countries felt that they were exempted from the G-77's claims as these demands were addressed, in their view, to the capitalists. Consequently, the G-77, whose propositions enjoyed frequent support from Group D, became a sort of steamroller." See also Robert Ramsay, UNCTAD's failures: the rich get richer, 38:2 International Organization (Spring 1984), p. 389 (hereafter Ramsay), stating that "[t]he Group D countries play very little part in the North-South debate. The problems, they claim, are attributable to the former colonial activities of the Group B powers (and to the current activities of the Group B corporations). They are consequently a matter for settlement between B and the 77. Nevertheless, the D countries generally support the 77."

¹⁷⁰ Walters, *supra*, at 833. See also Gosovic, *supra*, at 299, stating that "[R]esolution of conflicts in the B Group is usually achieved via the 'minimum common denominator' – i.e. the sum of the most negative positions on the different components of a proposal. The tendency for decisions to crystallize around the minimum common denominator is accentuated by the search for unanimous group decisions and the least costly alternative, and it is strong primarily because the most powerful members of the group are usually at the negative end of the continuum of possible solutions. The B Group position tends to crystallize at the level of consensus where the positions of all the major countries intersect, i.e. their minimum common denominator."

¹⁷¹ Walters, *supra*, at 832. A writer once described Group B negotiating positions as basically that of "opposing any proposal for change. Although most of them realize that a more equitable distribution of wealth would be in the long-term interests of a healthy world economy, in the short term any change would adversely affect some of the B countries. The ones likely to be affected call for, and obtain, the support of the others in the name of 'Group solidarity' (it being understood that on some future occasion reciprocal support will be obtained). Even when the Group B countries put forward 'positive proposals' of their own, these are usually of a cosmetic nature design to conceal their underlying resistance to change. ... For the most part the B government delegates respond to specific arguments with evasive generalities. Professing to agree on the need for reaching an international consensus, they fail to show any signs of being prepared to accept a consensus on any terms but their own. ... Outside the conference rooms, the Group B countries go further. They have been known to send envoys to complain to governments of developing countries whose delegates they regard as troublemakers. Some have even involved 'difficult' governments in potentially profitable contract negotiations, which effectively prevent them from speaking out at a meeting while negotiations are in progress." See Ramsay, *supra*, at 388-389, and 392.

This group-based negotiating format based on negotiating positions that are generally on opposite ends of the spectrum have been criticized by some observers as not being the most effective format for negotiating concrete agreements.¹⁷² Other observers, however, have pointed out that:

[w]hile pressing their demands, developing countries tried to go to the farthest distance in accommodating the concerns of developed countries. For this purpose, they agreed to give more than proportionate representation to the developed countries in the Trade and Development Board, the executive organ of UNCTAD. They also devised conciliation procedures in the Board which could be invoked by any Member State to postpone voting when it considered that a proposal for action by the Board substantially affected its economic or financial interest. Though these procedures were never invoked, their very existence exercised a moderating influence towards compromise rather than voting on contested proposals. This has been one of the reasons why almost all the substantive decision of the UNCTAD during its heyday were taken without dissent.¹⁷³

G-77 negotiating unity and cohesion during the 1970s and early 1980s were fostered to a large extent by their common agreement on the right of each state to determine its own development strategy on the basis of the unique cultural, social and other characteristics of each country.¹⁷⁴ They argued that there is no one single universal model for development, no one-size-fits-all approach to development. This philosophical perspective found itself reflected some of the principles that came out from the first session of UNCTAD.¹⁷⁵ Developing countries, by and large, during this period were critical of the package of market-oriented economic reform policies that, by the early 1980s, were already being promoted by developed countries and the Bretton Woods institutions as constituting “the” development policy approach applicable to all countries regardless of development context.

But as more developing countries changed their economic policies to conform to the Washington Consensus model in order to try to adapt to and deal with the debt crisis of the early 1980s, UNCTAD began to decline in terms of relevance for both developed and developing countries alike. Also, from the mid-1980s and well into the 1990s, developed countries sought to “rollback the international development agenda, which had been laboriously crafted in the U.N. framework during the previous decades. They interrupted the North-South dialogue and effectively kept the issues of international economic environment and its impacts on development off the agenda, thus frustrating those processes where the Group of 77 had played a major role in the past.”¹⁷⁶

As a result of the factors above coming into the 1990s, the G-77’s internal cohesion and unity in UNCTAD started to break apart.¹⁷⁷ This situation was further aggravated when

¹⁷² See e.g. Walters, *supra*, at 832; and Ricupero, *supra*, at xii.

¹⁷³ Boutros-Ghali, *supra*, at 2

¹⁷⁴ Lavelle, *supra*, at 34-35, 44-45.

¹⁷⁵ See e.g. General Principle Fifteen, UNCTAD I, Final Act, para. 54, in South Centre, RECALLING UNCTAD I AT UNCTAD XI (2004), at at 11, available at <http://www.southcentre.org/publications/pubindex.htm#books>, which states as follows:

The adoption of international policies and measures for the economic development of the developing countries shall take into account the individual characteristics and different stages of development of the developing countries, special attention being paid to the less developed among them, as an effective means of ensuring sustained growth with equitable opportunity for each developing country.

¹⁷⁶ G-77 at 40, *supra*, at 4.

¹⁷⁷ Lavelle, *supra*., at 44-45.

the Soviet Union, and along with it “the Socialist alternative”, broke up in the early 1990s.¹⁷⁸ By the time of the 1992 Cartagena session of UNCTAD (UNCTAD VIII), the G-77 in UNCTAD was virtually moribund as a united and cohesive group, as an observer has noted:

The traditional four-group system in UNCTAD gave way [in the 1990s] to shifting coalitions geared to consensus building. Group D – the centrally planned bloc – had ‘effectively’ disintegrated. Both the Group of 77 and Group B – the developed nations – adopted more flexible group structures. At UNCTAD VIII, the OECD countries did not appear to coordinate their positions, except that the European Community used one spokesman. The Group of 77 split into regional groupings with the Asian group maintaining the tightest coordination under a single spokesman. A Western Hemisphere coalition (including the United States, Canada, and a number of Latin American countries, notably Chile, Colombia, and Mexico, and sometimes including Australia) tended to be a major force in shaping the proceedings.¹⁷⁹

This observation has also been echoed elsewhere.¹⁸⁰ The G-77’s internal difficulties in negotiating as a cohesive and united group in UNCTAD in the 1990s were compounded by the fact that the UNCTAD secretariat was, by the early 1990s, no longer providing it with secretariat-type support.¹⁸¹ Neither was the UNCTAD secretariat, during the 1990s, able to provide the G-77 with the systemic analysis and critique that was the hallmark of the Group’s approach to UNCTAD discourse as the UNCTAD secretariat started focusing instead on providing developing countries with technical negotiating advice and support in the context of their participation in the GATT 1947 Uruguay Round of negotiations (which took place from 1986 to 1994) and thereafter.¹⁸² The G-77’s low point in terms of organizational unity and cohesion during the 1990s is reflected in the fact that the G-77, as such, was not active at all in the Uruguay Round negotiations and thereafter.¹⁸³

However, by the end of the 1990s and the early 2000s, coming out of the various financial and developmental crises that adversely affected the development prospects of developing countries during the 1980s and 1990s, G-77 unity and cohesion in the UNCTAD context started recovering,¹⁸⁴ spurred in part by the success of collective group action by developing countries in promoting a more development-focused trade agenda in the WTO. There was also an increasing recognition among developing countries that fundamental

¹⁷⁸ Ricupero, *supra*, at xiii.

¹⁷⁹ Taplin, *supra*, at 3.

¹⁸⁰ See e.g. Lavelle, *supra*, at 37, stating that “[e]ventually [by the early 1990s] the G77 ceased to advance a strategy on behalf of all of its members to change the structure of the world trading system. It ceased to issue declaration or even to meet prior to UNCTAD conferences.”

¹⁸¹ “The Group was also deprived of important support given to it by UNCTAD in the past, which had served as a major source of ideas, analysis and synthesis, and offered the logistical support that was required. The resulting dearth of intellectual ammunition and data to reinforce G77 policy views and aspirations on a continuing basis affected its unity and negotiating stance, made it less effective vis-à-vis the developed countries’ negotiators and in defending common interests, and was not conducive to its assuming initiatives and playing a proactive role in the world arena, as it did in earlier times.” See G-77 at 40, *supra*, at 6.

¹⁸² See e.g. Lavelle, *supra*, at 42, stating that “in taking on the role of coach in the multilateral trade negotiations, the UNCTAD secretariat could not challenge the game itself, or advance the group interests of the G77. While the G77 as a whole supported technical assistance initiatives in UNCTAD, the UNCTAD programmes which resulted aggregated the needs of a region, or a state, and not the needs of the G77 as a whole. Hence, the G77 never functioned in the Uruguay Round.”

¹⁸³ Instead, developing countries formed ad-hoc developing country-only groupings such as the Like-Minded Group (LMG), or else joined ad-hoc North-South groups such as the Cairns Group, in order to press for their interests during the Uruguay Round.

¹⁸⁴ See e.g. G-77 at 40, *supra*, at 8.

development challenges continue to remain which required developing countries to re-exert a collective effort to get their development partners to cooperate with developing countries to address these challenges effectively. The G-77's analysis and critique of the impacts of globalization and the role that the existing system of international institutions and policies play with respect to developing countries' development prospects also became clearer. This analysis and critique became the basis for a renewed interest in the recovery of the G-77 in UNCTAD as a major political actor in UNCTAD intergovernmental dynamics. Referring to the G-77 in general, it has been stated that:

The developing countries' voice and empowerment in the international arena is predicated on their group action and wielding of collective power and influence. This is vital for levelling the so-called "playing fields" (which are highly skewed and favour the already powerful and rich countries) and thus for the democratization of international relations.¹⁸⁵

Hence, going into the preparatory process for the tenth session of UNCTAD (UNCTAD X) in Bangkok, Thailand, in February 2000, the G-77 in UNCTAD set up three working groups, each of which considered a set of issues of common interest related to the agenda for UNCTAD X. These issues were: (i) international trade, commodities, and the positive agenda; (ii) development finance, debt and international investment; and (iii) enterprise development, trade facilitation, trade efficiency and electronic commerce. The results of these G-77 working groups contributed to the negotiating position of the G-77 for UNCTAD X, which focused on:

- Evaluation of the developmental impact of globalization;
- Stocktaking of major international initiatives and developments;
- Identification of problems and challenges;
- Proposals for measures and initiatives;
- UNCTAD's work programme for the next four years [2000-2004]¹⁸⁶

The results of the preparatory work done by the G-77 for UNCTAD X bore fruit in the fact that the UNCTAD X Bangkok Plan of Action reflected many of the perspectives pushed by the G-77 during the session – not only in terms of the structure of the agreed outcome but also in terms of many of its substantive paragraphs.¹⁸⁷

By the time of UNCTAD XI in Sao Paulo, Brazil, in June 2004, the G-77's preparatory process had become stronger, with the result that once again, UNCTAD negotiating dynamics became focused on inter-group dynamics involving the G-77 as the sole negotiating vehicle for developing countries.¹⁸⁸

In terms of the policy analysis that constituted a major part of the Sao Paulo Consensus, UNCTAD XI joined an increasing number of critiques of the extent to which current process of globalization has failed to deliver on their promised benefits, especially to most developing countries and their poverty stricken populations. Through the Sao Paulo

¹⁸⁵ G-77 at 40, *supra*, at 10

¹⁸⁶ Aboutahir, *supra*, at http://www.southcentre.org/southletter/sl34/sl34-03.htm#P129_29198

¹⁸⁷ See UNCTAD, Bangkok Plan of Action, TD/386, 18 February 2000, at http://www.unctad.org/en/docs/ux_td386.en.pdf.

¹⁸⁸ Since the late 1990s, in UNCTAD, as European integration became more solid, the group dynamics in Group B have also evolved. While developed countries generally tend to have similar views and negotiating positions and consult frequently with each other, Group B no longer acts as a solid group. Rather, the Member States of the European Union (represented by its rotating presidency) negotiate as a bloc, while the rest of the developed countries generally speak on their own behalf.

Consensus, UNCTAD XI recognized that the delivery of the benefits of the process of globalization has been unequal and that it has had, for many developing countries, adverse social impacts. One of the major policy statements of UNCTAD XI is its recognition of the concept of “policy space”, especially for developing countries, and the need for a better balance between such policy space and international disciplines and commitments. The inclusion of this concept in the Sao Paulo Consensus was a hard-fought success for the G-77 because it reflects the idea there is no one-size-fits all approach to development, and that developing countries require policy choices and flexibility within the international system to be able to manage their development process effectively.^{189 190}

Since UNCTAD XI, G-77 unity in the UNCTAD context has further strengthened. The 2006 process for the UNCTAD XI Mid-Term Review of the implementation of the Sao Paulo Consensus saw a G-77 that was more pro-active and able to effectively table and articulate group negotiating positions.

Regional groups within the G-77 were more active as well. One key factor that stimulated the re-emergence of the G-77 as a strong actor in UNCTAD negotiating dynamics was the formation of an active small ad hoc group of G-77 countries (represented by active and articulate delegates) coming from the various G-77 regions to support the G-77 Chair.

The intergovernmental preparations for the April 2008 twelfth session of UNCTAD (UNCTAD XII) in Accra, Ghana, are now seeing the G-77 also playing a major role in shaping the process and its negotiated outcomes. The G-77 has designated one of its member countries, Brazil, to serve as its coordinator and the lead G-77 spokesperson for the UNCTAD XII process. The coordinator for each of the G-77 regional groups (in 2008, Philippines for Asia, Argentina for Latin America and Caribbean, and Ivory Coast for Africa) work to ensure that regional group positions are developed for integration into the overall G-77 negotiating position after intra-G-77 discussions. Some regional coordinators, such as Ivory Coast for the African Group, are assisted by issue-specific “focal points” from other countries in their regional groups to assist them in managing intra-group discussions with respect to such issues. The regional coordinators sit and work with the G-77 UNCTAD XII coordinator during the intergovernmental negotiations. The lead G-77 coordinator and the regional coordinators are supported by the active involvement of many other G-77 members in drafting and discussing G-77 positions. At the same time, G-77 processes are flexible enough to also allow individual G-77 members or regional groups to also present their own positions if no intra-group consensus could be achieved on such positions.

¹⁸⁹ For the negotiating history of the concept of policy space in UNCTAD XI, see e.g. South Centre, Operationalizing the Concept of Policy Space in the UNCTAD XI Mid-Term Review Context, SC/GGDP/AN/GEG/1, May 2006, at http://www.southcentre.org/publications/AnalyticalNotes/GlobalEconomicGov/2006May_PolicySpaceUNCTADXI.pdf

¹⁹⁰ For more information about UNCTAD XI and its impact on UNCTAD, see e.g. South Centre, The UNCTAD XI Sao Paulo Consensus: Defining UNCTAD’s Mandate, SC/TADP/AN/GEG/5, July 2004, at http://www.southcentre.org/publications/AnalyticalNotes/GlobalEconomicGov/2004Jul_UNCTADXI_SaoPauloConsensus_Comments.pdf

Strengthening the G-77 in UNCTAD: Then and Now

From the establishment of UNCTAD up through the 1980s, the UNCTAD secretariat was not a neutral secretariat¹⁹¹ (and did not claim to be one, as compared to the WTO). It basically supported the G-77 in UNCTAD through the provision of logistical secretariat support, policy research and analysis, technical negotiating assistance, and other intellectual substantive input. The UNCTAD secretariat's work during this period basically enabled the G-77 to formulate specific requests for commitments to changes in norms from developed countries and, in the process, "facilitated more instrumental articulation by drawing lines of conflict in a manner potentially much more conducive to attainment of specific bargains in which the consequences for all parties are realistically spelled out."¹⁹² From the early 1990s to the present, UNCTAD's institutional ability to provide secretariat support to the G-77 in UNCTAD has been severely curtailed – now generally being limited to providing the G-77 with a small logistical liaison support unit, some facilities, and ad-hoc demand-driven policy research support.

On the other hand, developed countries had institutional advantages that enabled them to negotiate in a more coordinated manner in UNCTAD (and elsewhere, such as during the GATT Uruguay Round), such as: "the institutional focus that it has in the OECD, the secretariat the prepares studies, obtains necessary information on other groups and services meetings; the availability of information; the possibility of continuous intra-group consultations; long experience in mutual consultation; special divisions within the ministries dealing with UNCTAD affairs; a continuity of representation; and a relatively high level of expertise."¹⁹³

The G-77 in UNCTAD has also become more pro-active in seeking and obtaining policy research and technical support not only from the UNCTAD Secretariat but also from other intergovernmental institutions such as the South Centre (as well as from non-governmental organizations). Furthermore, it is active in virtually all of its intergovernmental processes, including at the level of the various Commissions and the TDB.

Hence, as of this writing, the G-77 has come nearly full circle from its early beginnings in terms of being a major collective actor in international trade-related policymaking in the UNCTAD context. The following words written in 1972 (during the G-77's first hey-day), remain valid today:

Today, in spite of the lesser frequency of a monolithic consensus, the developing countries continue to negotiate joint drafts, act together as sponsors, delegate spokesmen and negotiators, and vote as a group. The monolithic unity has been replaced by a more realistic concept of solidarity centering around two basic factors: (1) the position of developing countries in the world economy and their quest for change; and (2) a general agreement that the Group of 77 is a valuable policy and pressure tool, that it should continue to be active, that it is contributing to the slow learning process of all those involved in development cooperation in UNCTAD and elsewhere, and that it aids the acceptance and

¹⁹¹ Walters, *supra*, at 821.

¹⁹² *Id.*, at 823.

¹⁹³ Gosovic, *supra*, at 295. Furthermore, in addition to the OECD, the European Union is also supported by its own executive body, the European Commission, which provides the EU Presidency with analysis and technical advice on UNCTAD issues. EU internal processes – such as the troika system for the EU Presidency – also mean that the EU's institutional ability to negotiate effectively as a bloc is also bolstered by individual substantive and technical contributions from its Member States.

implementation of at least some measures that the developing countries desire.¹⁹⁴

The revitalization of UNCTAD very much depends upon the unity, dynamism and the sense of purpose of the G-77. The recent effective functioning of some of the groups of developing countries in the WTO context is a good example for the G-77 in UNCTAD. The G-20 and G-33 have functioned effectively in WTO mainly because of the perception of the countries that are members of these groups of the threat posed to their economic interest by the aggressive stance and the rigid positions of developed countries. These groups joined with G-90, consisting mostly of LDCs, and formed the wider G-110 to safeguard their interest. The developing countries have realized that the most effective means of safeguarding their interest is to confront the dominant ideology moving WTO and developed countries individually as well as collectively, and to put forward alternative ideas and policy approaches.

¹⁹⁴ Gosovic, *supra*, at 292.

IV. CONCLUSION

As can be seen from the discussion above, the ways in which developing countries participate in the governance of the WTO and UNCTAD, the two premier multilateral trade governance institutions, reflect their adaptation to perceived and real imbalances of economic and political power, both in terms of the bigger international economic system as well as with respect to the institutional governance mechanisms of these organizations.

The experiences of developing countries in both the WTO and UNCTAD clearly show that in the face of such imbalances, stemming from and resulting in the widening development gap discussed in Chapter II above, influencing governance will require the following:

- **Clear policy issue and agenda articulation** – Strong group action can only take place on the basis of a shared perception by the group members of having shared issues and a shared agenda that they are committed to and which they are willing to promote. In the case of the WTO, the rise and prominence of issue-based developing country coalitions and the ability of various developing country groups to work together across different issues in pursuit of a common development-oriented negotiated outcome clearly point this out. An important aspect in triggering collective group action in the WTO by developing countries was a generally shared perception of the imbalances that exist in the WTO's legal and institutional framework. In the case of UNCTAD, the continued relevance and legitimacy of the G-77 as the developing countries' negotiating vehicle to push and articulate their common systemic critique of the imbalances and inequities of the current international economic system also reflect this point. Furthermore, in both WTO and UNCTAD, developing country group action is based on a shared understanding of the need for a more development-oriented approach that addresses systemic problems to be undertaken in both institutions.

This shared understanding is important, especially in terms of continuously updating, fine-tuning and articulating a clear policy framework, a set of well-articulated policy objectives, and a clearly defined action agenda, that can be promoted in both institutional contexts. This represents an essential foundation and reference point for collective developing country group action in both the WTO and UNCTAD. This is a vital step in trying to overcome the intellectual and conceptual dependence vis-à-vis the North in which the developing countries have been entrapped. Today, the South faces the challenge of "intellectual liberation", which has to be undertaken collectively, as a serious, systematic and sustained effort by developing countries.

- **Coordination and leadership** – Strong groups in both the WTO and UNCTAD show that having institutionalised coordination and group leadership mechanisms are vital to the long-term survival of the group. This is clearly seen in the way that in the WTO, all of the developing country groups have established internal coordination mechanisms that allow them to designate individual members to be the focal point or lead for the group with respect to specific issues, and to report back to the group on such issues and suggest the actions that need to be taken. This is particularly visible in the regional or cross-regional groups in the WTO such as the African Group, the ACP Group, and the LDCs Group. The G-77 in UNCTAD, with its internal regional coordination system and the use by some of its regional groups of issue-specific focal points when needed, provides another example of how important good internal coordination mechanisms are for developing country groups.

Leadership patterns are more complex when comparing WTO groups to the G-77 in UNCTAD. In the WTO, developing country groups often tend to have no single identified “leader.” Instead, “leadership” is often linked to the internal coordination mechanism of each group, especially for the regional and cross-regional groups. However, issue-based groups often tend to have de facto recognized “leaders” – i.e. those countries that are most active and provide much input and influence into internal group dynamics, such as Brazil and India for the G-20, Indonesia for the G-33, South Africa for NAMA-11. In the G-77 in UNCTAD, institutionalised nominal leadership comes from the G-77 Chair (which rotates automatically every year among the three regional groups) but in actual practice, the regional coordinators (which rotate among regional members) and various individual members often also play important roles in shaping G-77 negotiating positions and policies.

- **Working relationships** – Given the relatively greater role that human resource constraints play in determining the extent of developing country participation, the working relationships that individual delegates have with other developing country delegates in the context of group dynamics become very important factors in ensuring smooth intra- and inter-group coordination and action. Since most of the WTO’s developing country groups are ad hoc formations, the establishment of such working relationships – which in turn often depends on the personal skills of the delegate concerned – become the basis for internal group trust and coordination. And although the G-77, as compared to the WTO groups, is far more institutionalised and established as a group, such working relationships are still nevertheless very important in ensuring that the G-77’s internal coordination and dynamics go smoothly.
- **Having institutional support** -- Full and continuous institutional support of the highest professional quality is essential for any multilateral endeavour, especially in a multilateral setting such as the WTO and UNCTAD, where developing countries are confronted with a complex, overlapping and interrelated agenda. This continues to be one of the weakest links in strengthening collective group action by developing countries. Creating, financing, staffing and running such an institution presents a number of problems that have earlier frustrated proposals of this kind. For example, despite the decision of the South Summit in 2000 to upgrade the existing arrangement of the Office of the Chairman of the Group of 77 in New York into a “compact executive secretariat” and to increase the annual contribution of each member state from \$1,000 to \$5,000, less than a quarter of the 132 member of the G-77 have met their financial obligations and the secretariat support has not been strengthened. In UNCTAD, the G-77, as stated before, benefits from a small logistical support unit being provided by the UNCTAD secretariat and can also call, on an ad hoc basis, on technical advice and support from UNCTAD. In the WTO context, institutional support for group action is very much dependent on the willingness and resources of individual countries – especially those coordinating the groups – and a few organizations (such as the South Centre). Developing country institutions such as the South Centre, the African Union, and the ACP Group (all of which have small offices in Geneva) try to cover the gap in terms of providing institutional support to developing country groups in both WTO and UNCTAD, but are themselves hampered by a lack of sufficient human and financial resources.

The underlying policy rationale which inspired the formation of the G-77 in UNCTAD in 1964 has essentially remained unchanged, and has been reconfirmed by events and developments during the last 40 years, especially during the last decade or so in both the WTO and UNCTAD. Indeed, today the need for collective and group action by developing countries is greater and more urgent than ever, for a number of reasons, including:

- The greater weight and importance of the world economy, and the related processes, for their national development and in general their economic policy and environmental space and sovereignty;
- The increasing complexity and scope of the development process, which no longer allows for sectoral and narrow approaches, and the multiplication of issues and challenges that concern all countries;
- The continued efforts by developed countries to dominate multilateral processes, institutions and outcomes, and, via these, the developing countries, their political and economic space, and their natural resources and endowments.

The experience of developing countries, individually and collectively, during the more recent period of globalization has only confirmed that developing countries need to be consistent and united in promoting their views and interests, and that to succeed it is also essential for them to join forces and pursue group action in most domains on the development agenda, including in the trade area.

In a world which is becoming increasingly interconnected and interrelated, and with a number of developing countries having made important progress and strides in development and economic growth, the collective weight of the South that can be mobilized today is significant and should be put to good use, both for launching major policy initiatives, as well as to counter the systemic economic and political imbalances that continue to exist in favor of developed countries.

ANNEX I: DEVELOPING COUNTRY COALITIONS IN THE WTO - 2006-2007

Coalition Name	Membership (as of June 2007)	Coalition Description
African Group	Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Congo, Ivory Coast, Democratic Republic of Congo, Djibouti, Egypt, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia, Zimbabwe	This group is composed of the African WTO Members, and serves as the regional coordinating vehicle for negotiating in all WTO negotiating areas. It was very active during the TRIPS and public health negotiations, and played a prominent role in the inclusion of Singapore issues in the Doha negotiations. It has many members in common with the ACP and LDC groups (see below).
Africa, Caribbean, Pacific (ACP) Group	African Group members, plus Antigua & Barbuda, Barbados, Belize, Cuba, Dominica, Dominican Republic, Fiji, Grenada, Guyana, Haiti, Jamaica, Papua New Guinea, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Solomon Islands, Suriname, Trinidad & Tobago	This group essentially serves as a coordinating mechanism for common cross-regional negotiating positions that may be agreed upon by African, Caribbean and Pacific WTO Members.
Association of South East Asian Nations (ASEAN)	Brunei, Cambodia, Indonesia, Malaysia, Myanmar, the Philippines, Singapore, and Thailand.	This regional grouping used to be quite active during the Uruguay Round and in the early years of the WTO. However, in recent years, it has been relatively inactive compared to other developing country groups.
Caribbean Community (CARICOM)	Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Trinidad and Tobago, Suriname	This represents the WTO Members of the Caribbean Community (CARICOM), and coordinates negotiations as a regional group across all the negotiating areas with the support of the Caribbean Regional Negotiating Machinery (CNRM).
Core Group in Trade Facilitation (CGTF)	Bangladesh, Botswana, Cuba, Egypt, India, Indonesia, Jamaica, Kenya, Malaysia, Mauritius, Namibia, Nepal, Nigeria, Philippines, Rwanda, Tanzania, Trinidad & Tobago, Uganda, Venezuela, Zambia and Zimbabwe	This cross-regional group is active in the WTO trade facilitation negotiations., and is focused on ensuring that the special and differential treatment and technical assistance and capacity-building mandates built into the trade facilitation negotiations are made operational and reflected in both the negotiating process and its outcomes. It sometimes seeks to coordinate its work with the African Group, ACP Group, LDCs, and SVEs.
G-11	Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Honduras, Guatemala, Nicaragua, Panama, Peru and Venezuela.	Composed of some Latin American WTO Members mostly exporting tropical agricultural products (e.g. bananas), this is an issue-focused group active in the WTO agriculture negotiations and pressing for increased market

Coalition Name	Membership (as of June 2007)	Coalition Description
		openings for tropical agricultural products.
G-20	<p>Argentina, Bolivia, Brazil, Chile, China, Cuba, Ecuador, Egypt, Guatemala, India, Indonesia, Kenya, Mexico, Nigeria, Pakistan, Paraguay, Peru, Philippines, South Africa, Tanzania, Thailand, Uruguay, Venezuela and Zimbabwe.</p> <p>(Colombia, Costa Rica, and El Salvador were formerly members of the G-20).</p>	This cross-regional group is active primarily in the WTO agriculture negotiations, and has an offensive agenda pushing for the elimination of export and domestic subsidies and increased access to developed country markets for their agricultural products. Their defensive agenda seeks to ensure that developing countries continue to have flexibility in agricultural product tariff liberalization.
G-33	<p>Antigua & Barbuda, Barbados, Belize, Benin, Bolivia, Botswana, China, Cote d'Ivoire, Congo, Cuba, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, India, Indonesia, Jamaica, Kenya, Korea, Madagascar, Mauritius, Mongolia, Mozambique, Nicaragua, Nigeria, Pakistan, Panama, Peru, the Philippines, Saint Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Senegal, Sri Lanka, Suriname, Tanzania, Trinidad and Tobago, Turkey, Uganda, Venezuela, Zambia and Zimbabwe.</p>	This cross-regional group is active in the WTO agriculture negotiations, with an offensive agenda pushing for the inclusion of provisions on Special Products (SP) and Special Safeguard Mechanism (SSM) in a revised agreement on agriculture – i.e. provisions that would allow developing countries to promote food security, sustainable livelihoods and rural development needs by protecting some agricultural products from tariff liberalization.
G-90	<p>Composed of the members of the following groups:</p> <ul style="list-style-type: none"> • African Group • ACP Group • LDC Group 	Taking its name from the total number of countries represented in the three constituent groups, this “group of groups of developing countries” was formed in response to pressure leading up to the 2003 Cancun Ministerial Conference for the launch of negotiations on Singapore issues. Such launch had been opposed by all of the three constituent groups. The G-90 does not often act as a distinct negotiating group, but rather acts more as a political umbrella group for its three constituent groups on a case-by-case basis. The most recent example was the G-90 statement against the NAMA modalities paper of July 2007.
Least-Developed Countries (LDCs)	<p>Angola, Bangladesh, Benin, Burkina Faso, Burundi, Central African Republic, Chad, Congo, Djibouti, Gambia, Guinea, Guinea Bissau, Haiti, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Myanmar, Niger, Rwanda, Senegal, Sierra Leone, Solomon Islands, Tanzania, Togo, Uganda and Zambia.</p>	This cross-regional group is composed of the Least-Developed Country WTO Members, and serves as their coordinating mechanism across all WTO negotiating areas.

Coalition Name	Membership (as of June 2007)	Coalition Description
NAMA-11	Argentina, Brazil, Egypt, India, Indonesia, Namibia, Philippines, South Africa, Tunisia and Venezuela.	This cross-regional group is active in the WTO NAMA negotiations. It is pushing for developing countries to maintain their tariff flexibility as much as possible with respect to industrial goods, and the reduction or elimination of tariff peaks and escalations imposed by developed countries on industrial goods from developing countries.
Paragraph 6 countries	Cameroon, Congo, Cote d'Ivoire, Cuba, Ghana, Kenya, Macao (China), Mauritius, Nigeria, Sri Lanka, Suriname, Zimbabwe	This cross-regional group is active in the WTO NAMA negotiations, being especially concerned with 'exception issues' within the NAMA framework (i.e. the treatment of WTO members that have obtained or are seeking exemptions from having to apply the standard formula for reducing NAMA tariffs). This group includes countries whose binding coverage is below 35% of their tariff lines. The group takes its name from Paragraph 6 of Annex B (NAMA) of the July 2004 Framework Package.
Small Vulnerable Economies (SVEs)	Antigua and Barbuda, Barbados, Belize, Bolivia, Cuba, Dominica, Dominican Republic, El Salvador, Fiji, Grenada, Guatemala, Guyana, Honduras, Jamaica, Maldives, Mauritius, Mongolia, Nicaragua, Paraguay, Papua New Guinea, Solomon Islands, St. Kitts and Nevis, St Lucia, St. Vincent and the Grenadines, Trinidad and Tobago.	This cross-regional group is focused on highlighting, across all the WTO negotiating areas, the special circumstances and developmental difficulties that they face as SVEs, and hence is pushing for special and differential treatment provisions in all negotiating areas appropriate to their needs.

Note: This list does not include groups that have mixed developed and developing country membership.

ANNEX II: OVERLAPPING MEMBERSHIPS OF DEVELOPING COUNTRY GROUPS AND COALITIONS IN THE WTO**Acronyms Key:**

ASEAN – Association of South East Asian Nations

CARICOM – Caribbean Community

CGTF – Core Group on Trade Facilitation

LDCs – Least-Developed Countries

LLDCs – Landlocked Developing Countries

NAMA-11 – Non-Agricultural Market Access-11

PIF – Pacific Islands Forum

SVEs – Small Vulnerable Economies

WTO Member	Regional Groups				Issue-Based Groups						Common Characteristic Groups			WTO Member
	African Group (G90)	CARICOM (G90)	PIF (G90)	ASEAN	G20	G33	NAMA-11	Cotton-4	CGTF	Para 6 NAMA	LDCs	LLDCs	SVEs	
1. Albania														Albania
2. Angola	*										*			Angola
3. Antigua and Barbuda		*				*							*	Antigua and Barbuda
4. Argentina					*		*							Argentina
5. Armenia														Armenia
6. Bahrain														Bahrain
7. Bangladesh									*		*			Bangladesh
8. Barbados		*				*							*	Barbados
9. Belize		*				*								Belize
10. Benin	*					*		*			*			Benin
11. Bolivia					*	*						*		Bolivia
12. Botswana						*			*			*		Botswana
13. Brazil					*		*							Brazil
14. Brunei Darussalam				*										Brunei Darussalam
15. Burkina Faso	*							*			*			Burkina Faso
16. Burundi	*										*			Burundi
17. Cambodia											*			Cambodia
18. Cameroon	*									*				Cameroon
19. Central African	*										*			Central African

WTO Member	Regional Groups				Issue-Based Groups						Common Characteristic Groups			WTO Member
	African Group (G90)	CARICOM (G90)	PIF (G90)	ASEAN	G20	G33	NAMA-11	Cotton-4	CGTF	Para 6 NAMA	LDCs	LLDCs	SVEs	
African Republic														Republic
20. Chad	*							*			*			Chad
21. Chile					*									Chile
22. China					*	*								China
23. Colombia														Colombia
24. Congo	*					*				*	*			Congo
25. Costa Rica														Costa Rica
26. Côte d'Ivoire	*					*				*				Côte d'Ivoire
27. Croatia														Croatia
28. Cuba					*	*			*	*			*	Cuba
29. Democratic Republic of the Congo	*													Democratic Republic of the Congo
30. Djibouti	*										*			Djibouti
31. Dominica		*				*								Dominica
32. Dominican Republic						*							*	Dominican Republic
33. Ecuador														Ecuador
34. Egypt	*				*		*		*					Egypt
35. El Salvador						*							*	El Salvador
36. Fiji			*										*	Fiji
37. FYR Macedonia														FYR Macedonia
38. Gabon	*													Gabon
39. Gambia	*										*			Gambia
40. Georgia														Georgia
41. Ghana	*									*				Ghana
42. Grenada		*				*								Grenada
43. Guatemala					*	*								Guatemala
44. Guinea	*										*			Guinea
45. Guinea Bissau	*										*			Guinea Bissau

WTO Member	Regional Groups				Issue-Based Groups						Common Characteristic Groups			WTO Member
	African Group (G90)	CARICOM (G90)	PIF (G90)	ASEAN	G20	G33	NAMA-11	Cotton-4	CGTF	Para 6 NAMA	LDCs	LLDCs	SVEs	
46. Guyana		*				*							*	Guyana
47. Haiti						*					*			Haiti
48. Honduras						*							*	Honduras
49. Hong Kong, China														Hong Kong, China
50. India					*	*	*		*					India
51. Indonesia					*	*	*		*					Indonesia
52. Jamaica		*				*			*				*	Jamaica
53. Jordan														Jordan
54. Kenya	*					*			*	*				Kenya
55. Korea, Republic of						*								Korea, Republic of
56. Kuwait														Kuwait
57. Kyrgyz Republic												*		Kyrgyz Republic
58. Lesotho	*										*	*		Lesotho
59. Macao, China										*				Macao, China
60. Madagascar	*					*					*			Madagascar
61. Malawi	*										*	*		Malawi
62. Malaysia									*					Malaysia
63. Maldives											*			Maldives
64. Mali	*						*				*	*		Mali
65. Mauritania	*										*			Mauritania
66. Mauritius	*					*			*	*			*	Mauritius
67. Mexico					*									Mexico
68. Moldova												*		Moldova
69. Mongolia						*						*		Mongolia
70. Morocco	*													Morocco
71. Mozambique	*					*					*			Mozambique
72. Myanmar				*							*			Myanmar
73. Namibia	*					*			*					Namibia
74. Nepal									*		*			Nepal

WTO Member	Regional Groups				Issue-Based Groups						Common Characteristic Groups			WTO Member
	African Group (G90)	CARICOM (G90)	PIF (G90)	ASEAN	G20	G33	NAMA-11	Cotton-4	CGTF	Para 6 NAMA	LDCs	LLDCs	SVEs	
75. Nicaragua						*							*	Nicaragua
76. Niger	*										*			Niger
77. Nigeria	*				*	*			*	*				Nigeria
78. Oman														Oman
79. Pakistan					*	*								Pakistan
80. Panama						*								Panama
81. Papua New Guinea			*										*	Papua New Guinea
82. Paraguay					*							*		Paraguay
83. Peru						*								Peru
84. Philippines			*		*	*	*		*					Philippines
85. Qatar														Qatar
86. Rwanda	*								*		*			Rwanda
87. Saint Kitts and Nevis		*				*								Saint Kitts and Nevis
88. Saint Lucia		*				*								Saint Lucia
89. Saint Vincent & the Grenadines		*				*								Saint Vincent & the Grenadines
90. Saudi Arabia														Saudi Arabia
91. Senegal	*					*					*			Senegal
92. Sierra Leone	*										*			Sierra Leone
93. Singapore				*										Singapore
94. Solomon Islands			*								*		*	Solomon Islands
95. South Africa	*				*		*							South Africa
96. Sri Lanka						*				*				Sri Lanka
97. Suriname		*				*				*				Suriname
98. Swaziland	*											*		Swaziland
99. Tanzania	*				*	*			*		*			Tanzania
100. Thailand				*	*									Thailand
101. Togo	*										*			Togo

WTO Member	Regional Groups				Issue-Based Groups						Common Characteristic Groups			WTO Member
	African Group (G90)	CARICOM (G90)	PIF (G90)	ASEAN	G20	G33	NAMA-11	Cotton-4	CGTF	Para 6 NAMA	LDCs	LLDCs	SVEs	
102. Tonga			*											Tonga
103. Trinidad and Tobago		*				*			*					Trinidad and Tobago
104. Tunisia	*						*							Tunisia
105. Turkey						*								Turkey
106. Uganda	*					*			*		*	*		Uganda
107. United Arab Emirates														United Arab Emirates
108. Uruguay					*									Uruguay
109. Venezuela					*		*		*					Venezuela
110. Viet Nam				*										Viet Nam
111. Zambia	*					*			*		*			Zambia
112. Zimbabwe	*				*	*			*	*				Zimbabwe

ANNEX III: DEVELOPING COUNTRY WTO MEMBERS NOT PART OF ANY DEVELOPING COUNTRY-ONLY GROUP

Asia	Middle East	Latin America	Economies in Transition
Hong Kong (China)	Bahrain Jordan Kuwait Saudi Arabia United Arab Emirates	Colombia Ecuador	Armenia Albania Croatia FYR Macedonia Georgia

ANNEX IV: DEVELOPING COUNTRIES WITH MULTIPLE GROUP OR COALITION MEMBERSHIP IN THE WTO

Member of a Regional, Common-Characteristic, and Issue-Based Group	Developing Countries Active in Two or More Issue-Based Groups	
Antigua and Barbuda	Argentina – G20, NAMA-11	Mauritius – G33, CGTF, Para 6
Barbados	Benin – G33, C-4	Namibia – NAMA-11, Para 6
Benin	Bolivia – G20, G33	Nigeria – G20, G33, CGTF, Para 6
Burkina Faso	Botswana – G33, CGTF	Pakistan – G20, G33
Chad	Brazil – G20, NAMA-11	Philippines – G20, G33, NAMA-11, CGTF
Congo	China – G20, G33, NAMA-11 supporter	South Africa – G20, NAMA-11
Guyana	Congo – G33, Para 6	Sri Lanka – G33, Para 6
Jamaica	Cote d’Ivoire – G33, Para 6	Suriname – G33, Para 6
Madagascar	Cuba – G20, G33, CGTF, Para 6	Tanzania – G20, G33, CGTF
Mali	Egypt – G20, NAMA-11, Para 6	Trinidad and Tobago – G33, CGTF
Rwanda	Guatemala – G20, G33	Uganda – G33, CGTF
Senegal	India – G20, G33, NAMA-11, CGTF	Venezuela – G20, NAMA-11, CGTF
Tanzania	Indonesia – G20, G33, NAMA-11, CGTF	Zambia – G33, CGTF
Uganda	Kenya – G33, CGTF, Para 6	Zimbabwe – G20, G33, CGTF, Para 6
Zambia		

ANNEX V: THE G-77 IN UNCTAD

List A (Africa and Asia – 102 States)				List C (Latin America and Caribbean – 33 States)	
1. Afghanistan	27. Equatorial Guinea	53. Maldives	78. Senegal	1. Antigua and Barbuda	18. Guyana
2. Algeria	28. Eritrea	54. Mali	79. Seychelles	2. Argentina	19. Haiti
3. Angola	29. Ethiopia	55. Marshall Islands	80. Sierra Leone	3. Bahamas	20. Honduras
4. Bahrain	30. Fiji	56. Mauritania	81. Singapore	4. Barbados	21. Jamaica
5. Bangladesh	31. Gabon	57. Mauritius	82. Solomon Islands	5. Belize	22. Mexico
6. Benin	32. Gambia	58. Micronesia	83. Somalia	6. Bolivia	23. Nicaragua
7. Bhutan	33. Ghana	(Federated States of)	84. South Africa	7. Brazil	24. Panama
8. Bosnia and Herzegovina	34. Guinea	59. Mongolia	85. Sri Lanka	8. Chile	25. Paraguay
9. Botswana	35. Guinea-Bissau	60. Morocco	86. Sudan	9. Colombia	26. Peru
10. Brunei Darussalam	36. India	61. Mozambique	87. Swaziland	10. Costa Rica	27. Saint Kitts and Nevis
11. Burkina Faso	37. Indonesia	62. Myanmar	88. Syrian Arab Republic	11. Cuba	28. Saint Lucia
12. Burundi	38. Iran (Islamic Republic of)	63. Namibia	89. Thailand	12. Dominica	29. Saint Vincent and the Grenadines
13. Cambodia	39. Iraq	64. Nepal	90. Timor-Leste	13. Dominican Republic	30. Suriname
14. Cameroon	40. Israel	65. Niger	91. Togo	14. Ecuador	31. Trinidad and Tobago
15. Cape Verde	41. Jordan	66. Nigeria	92. Tonga	15. El Salvador	32. Uruguay
16. Central African Republic	42. Kenya	67. Oman	93. Tunisia	16. Grenada	33. Venezuela (Bolivarian Republic of)
17. Chad	43. Kuwait	68. Pakistan	94. Turkmenistan		
18. China	44. Lao People's Democratic Republic	69. Palau	95. Uganda		
19. Comoros	45. Lebanon	70. Papua New Guinea	96. United Arab Emirates		
20. Congo	46. Lesotho	71. Philippines	97. United Republic of Tanzania		
21. Côte d'Ivoire	47. Liberia	72. Qatar	98. Vanuatu		
22. Democratic People's Republic of Korea	48. Libyan Arab Jamahiriya	73. Republic of Korea	99. Viet Nam		
23. Democratic Republic of the Congo	49. Madagascar	74. Rwanda	100. Yemen		
24. Djibouti	50. Malawi	75. Samoa	101. Zambia		
25. Egypt	51. Malaysia	76. Sao Tome and Principe	102. Zimbabwe		
		77. Saudi Arabia			

