

**Legitimacy and Global Governance Institutions**

*Challenges and Possibilities from the WTO's Experience*

Jayati Srivastava  
Centre for International Politics, Organisation and Disarmament  
School of International Studies  
Jawaharlal Nehru University, New Delhi, India  
Email: jayatis@mail.jnu.ac.in

Paper Presented at the Conference on  
*Pathways to Legitimacy? The Future of Global and Regional Governance*  
10th Anniversary of CSGR, 2<sup>nd</sup> Annual Meeting of GARNET

University of Warwick  
17-19 September  
2007

**Legitimacy and Global Governance Institutions**  
*Challenges and Possibilities from the WTO's Experience*

▪ **Jayati Srivastava\***

The legitimacy of global governance institutions has captured the attention of a number of scholars in recent years, more particularly after the 'battle for Seattle' in 1999. When applied to global governance institutions, the complex notion of legitimacy becomes even more problematic. The paper attempts to look at the notion of legitimacy and the related conceptual concerns regarding its application to institutions of global governance.<sup>1</sup>

It argues that the legitimacy of any institution of global governance emanates from a combination of factors that pushes the boundaries of democratic theory and in addition, depends heavily on its functional efficiency - its capacity to fulfil its mandate and also its ability to generate consent about its normative goals. In an optimum situation, multiple dimensions of legitimacy put together would enhance the legitimacy of any global governance institution. However, for any institution of global governance, the equilibrium between various dimensions of legitimacy is difficult to achieve, given multiple actors as also differing agenda and interests amongst member states; civil society actors including NGOs; and, other stakeholders. Within this conceptual framework, the paper specifically focuses upon the legitimacy dimensions of the World Trade Organisation (WTO).

The paper is divided into four sections. Part I has attempted to capture the debate on the concept of legitimacy and its application to institutions of global governance. It also delineates upon the various dimensions of legitimacy of global governance institutions. Part II discusses specific issues of legitimacy of the WTO and dwells on the reasons for the progressive decline in its legitimacy. Part III analyses the attempts made by the WTO to address some of these issues in order to augment its legitimacy while conclusions are summed up in part IV.

## I

### *The Concept of Legitimacy*

The concept of legitimacy is not amenable to easy definition and quantification and more so when it is applied to international arena. Viewed from a sociological and psychological perspective, legitimacy can be termed as the “tendency of individuals or groups to accept and follow the rules of a political order” which is different from instrumentalist or coercive reasons of rule following.<sup>2</sup> The notion of consent therefore is a major component of legitimacy which also denotes absence of coercion/force but not power, especially when used in a political sense.

In a political sense, legitimacy denotes right to govern or recognition of right to govern which simultaneously justifies political power and obedience. The mechanism of political legitimacy therefore “aims at establishing recognition for the right to govern.”<sup>3</sup> In other words, legitimacy makes a distinction between who commands and who obeys and the separation of the governors and the governed and therefore, in principle, does not discount the existence of power. Hence in a *de jure* framework, the legitimacy would depend on fulfilling the conditions of the division between the governors and the governed.<sup>4</sup>

Legitimacy in political terms also requires norms and values around which there is a broad consensus. It is “what people accept because of some normative understanding or process of persuasion” where “justification and reason-given are fundamental”<sup>5</sup> and is often in conformity with law.<sup>6</sup> In this sense, it also has a legal connotation. However, legality alone would not be a sufficient condition and legitimacy would flow only if such legality/legal actions reflect a broad agreement with the values of the society.<sup>7</sup>

In contemporary polities, the model of representative democracy is considered as the only viable means to both seek and express consent. Democracy thus becomes a means to augment legitimacy for the political system as “laws, rules, and polities appear justified when they are

democratic.”<sup>8</sup> Democracy in a political sense then also becomes an end in itself with a variety of projects aimed at deepening democracy.

In this context, democratic legitimacy can be referred to as “the authority to adopt collectively binding decisions, to implement these with resources taken from the members of the collectivity, and ultimately by resort to the state’s monopoly of legitimate coercion.”<sup>9</sup> Hence, democracy becomes both a tool as well as a goal that facilitates realisation of the other aspects of legitimacy in any polity.<sup>10</sup>

### *Legitimacy of Global Governance Institutions: Conceptual Concerns*

In the international realm, the notions of legitimacy are quite fuzzy. In the realist interpretation of international order characterised by unequal distribution of power and capabilities among states, legitimacy becomes an instrument to maintain and sustain the order. The Realists thus argue that the question of legitimacy in the context of global governance institutions is conceptually untenable as these institutions do not possess either an independent political will or effective political independence apart from the ones assigned to them by the states. Since global governance institutions are not effectively engaged in governing independently but in the administration of functions delegated to them by the member states, talking of the ‘legitimacy’ of global governance institutions “seem to be a reversal of the subject-object relationship between states and international organisations [as] states and governments are supposed to govern international organisations.”<sup>11</sup> This view considers world society as “international society” comprised of community of states and any global governance institution constituted by them accountable only to the member countries concerned.<sup>12</sup>

The institutionalist theory on the other hand, holds that global governance institutions play an independent role in international relations by building their own logic of functioning which takes place as a result of political bargaining between member countries.<sup>13</sup> The policies so arrived at are “capable of encroaching upon the sovereign rights of individual states that

are members of the international community and, by extension, upon the rights of individuals residing in such states, without their specific consent.”<sup>14</sup>

This view envisages world society as a “global society” where inter-state relations are only one aspect of the myriad interactions that takes place between various actors at multiple levels. Hence, the legitimacy of global governance institutions is and should be derived from not only the member states but also the individuals/public at large – the global society as a whole.

In this context, the legitimacy of global governance institutions is often seen as co-terminus with or a function of the principle of democracy and related components including participation, representation, accountability and transparency. This transcends the traditional realist notion that democratic principle is confined to territorially-bound political communities of nation states and not applicable to international realm which is dominated by concerns of war, peace, survival and security.

The issue of democratic legitimacy of global governance institutions opens a parallel debate within democratic theory about the nature of people’s rights in international community and more fundamentally do we have an international community? Here arguments centre on the issue whether in the absence of global society/political community and also the *demos* (the citizens), the notion of democracy is applicable or practical at the level of global governance institutions. Taking this line of argument further, scholars such as Keohane and Nye argue that “international institutions lack the essential feature that makes democracy possible and that in democracies, facilitates accountability: an acknowledged public operating within a political community in which there is a general consensus on what makes public decisions legitimate.”<sup>15</sup>

Despite such conceptual complexities, many scholars invoke the legitimacy of global governance institutions from the point of view of democracy. In fact most of the literature on the legitimacy of global governance institutions focuses on various aspects of democracy or the lack thereof.

Arguing that the lack of legitimacy of global governance institutions is rooted in the democratic deficit, such an approach underlines three broad reasons for such democratic deficit. “First, international organisations are not run in a democratic manner vis-à-vis participating states. Second, international law and treaties do not sufficiently mandate democracy within each state. Third, international organisations are not run in a democratic manner vis-à-vis the public.”<sup>16</sup> Besides, not all member states are democracies and hence the claims that decisions arrived at global governance institutions represent the will of the people by proxy through their respective member countries are hollow.<sup>17</sup> As a consequence, many of these global governance institutions especially, economic and financial institutions such as the IMF, the World Bank and the WTO have been branded as ‘illegitimate’ because of the democratic deficit that they perpetuate in their functioning. Even the UN which is considered to be an egalitarian institution (based on sovereign equality of member nations having the principle of one country one vote in the General Assembly) has a Security Council with five permanent members who have the veto power. Scholars such as Charnovitz further argue that one country one vote principle (even though considered an egalitarian principle), undermines an important pillar of democracy by giving smaller nations a disproportionate share in the decision-making at the cost of more populous nations within global governance institutions.

To overcome democratic deficit so engendered or what Franck calls “fairness deficit”<sup>18</sup> in the institutions of global governance, the scholarly literature on transnational democracy is quite pertinent. Within this, the project of cosmopolitan democracy underlines a new thinking on democracy in the international realm citing significant transformation in the nature and prospects of democratic political community.<sup>19</sup> Other theoretical streams on transnational democracy include liberal institutionalism; radical pluralistic democracy and deliberative democracy (and related conceptions of stakeholder democracy).<sup>20</sup> Within this literature, creation of citizen-elected Global Parliamentary Assembly (GPA) (Richard Falk and Andrew Strauss) and

creation of a World Party capable of coordinating anti-systemic movements (Stephen Gill) are some of the proposals aimed at operationalising and/or enhancing the idea of transnational democracy.<sup>21</sup>

While the debate over various models remains inconclusive, institutions of global governance are adopting some degree of democratic functioning and openness in order to enhance their legitimacy. The in-principle of acceptance of democratic norms in the functioning of global governance institutions assumes the possibility of a disconnect between the interests of nation state and the interests of the people residing therein. Hence, the principle of national interest reflecting homogeneity of the state is contested.

Also contested is the realist view of treating global governance institution as nothing more than an agent of the member-states. On the contrary, global governance institutions are treated as independent political entities which even though driven by member states acquire an independent political and legal personality shaping lives of millions of people through their policy pronouncements and regulatory mechanisms. Hence some degree of democratic functioning is imperative for them to gain legitimacy.

However, owing to its peculiar character and operational milieu, the legitimacy of global governance institutions goes beyond the specific democratic dimension to include functional efficiency and also a broad agreement or consent with the normative goal that it professes. The next section discusses different dimensions of legitimacy of institutions of global governance.

#### *What Constitutes Legitimacy of Global Governance Institutions?*

For any political entity including global governance institutions, legitimacy is a process which is not static but needs to be earned and is in a continuous process of evolution/accumulation (and even dissipation) which is difficult to quantify and more often a matter of perception. However, it can be argued that legitimacy of global governance institutions is derived from a combination of factors working in tandem, including the democratic principle.

### Democratic Dimension

Legitimacy of global governance institutions is intertwined with its democratic credentials, both internal and external. In other words, the application of democratic principle operates at multiple levels in case of global governance institutions. At the internal level it would involve equal participation and representation of member states in the decision-making processes. Legitimacy in this case would be derived from the fundamental faith in the process of decision-making which would include an acceptance of the policy-making process and its implementation to the satisfaction of all its members. Here equitable, inclusive and meaningful participation or representation of all member states is a crucial element in reinforcing legitimacy. This would imply both equal voting rights as well as influence in setting the agenda as well as the outcomes.

At the external level however, external legitimacy would also hinge on organisation's ability to give representation to people (if not participation) whose lives are impacted by its policies.<sup>22</sup> It would also hinge on the principle of accountability and transparency.<sup>23</sup>

Accountability in the case of global governance institutions does not necessarily mean democratic accountability but refers to "the process through which an organisation *makes a commitment* to balance the needs of stakeholders in its decision-making processes and activities, and *delivers against this commitment*."<sup>24</sup> Hence, "accountability is both about justice (people's right to have a say in decisions that affect their lives) and about efficiency (involving people affected by decisions can improve them and help to avoid negative consequences in the long term)." It therefore also requires transparency, accessibility and means of redress."<sup>25</sup>

Transparency for global governance institutions would include both external and internal transparency. While "external transparency is important for reasons of democracy and legitimisation, internal transparency is solely about making an egalitarian participation of all member states in the decision making process possible."<sup>26</sup>

Thus, accountability and transparency of global governance institutions is not towards member countries alone but also towards people whose lives are impacted by their policies.

Apart from the democratic dimension, the legitimacy of global governance institutions rests on broad acceptance of the normative goal that it sets out to accomplish.

### Normative Dimension

Any political entity would not stand the test of legitimacy if there is a disagreement with the values that it professes through its policies. Hence, normative consensus is an important component of legitimacy which entails a broad acceptance of an organisation's normative goals or values amongst its stakeholders. "Attempts to implement policies through the international institutions will lack legitimacy if there is no shared normative commitment to the virtue of a given policy."<sup>27</sup> The very act of creation of an institution of global governance by the states whether for functional or any other reasons, underlines a broad agreement with the goal (whether development, peace, equity or human rights, etc.) that the organisation in question seeks to achieve. It may not always explicitly be a normative goal but aim at achieving a normative end. For instance, the WTO's goal of free trade is viewed as a means to promote sustainable and broad-based economic growth for fulfilling the welfare needs of the people of member states and thus ensuring equity and justice for all.

The problem of legitimacy arises if there is a discrepancy in the goal cherished by member states on the one hand and larger or even a section of international community - the global civil society or the collectives of people, on the other. For instance, many environmental groups argue that the principle of free trade and accompanied liberalisation is in conflict with the goal of environmental protection, as more trade means an increased production of goods which would cause plunder of environment.

Even amongst member states, the shared goal may cease to remain shared over a period of time. This may be due to the conflict of interests between

different member states' goals and the discrepancy between the original expectation and the achievable goals. For instance, the principle of multilateralism which became the corner stone of post World War-II international order is now coming under challenge due to the rise of regionalism as well as increasing bilateralism pursued by many states, especially the US.

In many cases therefore, the normative issues get enjoined with the capacity of the organisation to deliver on its mandate and hence constitutes the functional aspects of its legitimacy.

### Functional Dimension

In the case of global governance institutions, legitimacy also depends partly on their effectiveness defined in terms of their ability to fulfil their mandate. It may be referred to as a functional legitimacy whereby, the organisation derives its legitimacy from discharging its functions effectively. Since organisations are created to fulfil a specific purpose and implement certain mandate, any failure to discharge this function effectively would jeopardise their legitimacy.

To summarise, legitimacy of global governance institutions emanates from a combination of many factors encapsulating broad sweeps of concepts such as democracy (participation, representation, accountability, transparency); functional efficiency or its capacity to fulfil its mandate; and, a shared commitment with the normative goal that it professes.

In an optimum situation, multiple dimensions of legitimacy put together would enhance the legitimacy of any institution of global governance. However, for any global governance institution, the equilibrium between various dimensions of legitimacy is difficult to achieve given multiple actors and different agenda and interests amongst member states, civil society actors and other stakeholders. In other words, although global governance institutions are conceptually driven by the member states, they are operating in a milieu where actors other than states - such as civil society actors, etc. play an important and significant role. This often leads to conflicting

demands placed on global governance institutions adding to the problem of legitimacy. This aspect has been elaborated in the context of the WTO in the next section.

## II

### **WTO and Legitimacy**

The WTO established in the year 1995 is a multilateral body to negotiate, set, govern and monitor the rules of international trade. Its dispute resolution mechanism (DSM) is considered as an important pillar in advancing the global governance mechanisms as it not only settles trade disputes between governments but also works as an effective enforcement mechanism, binding all member countries - big or small.

#### *Democratic Dimension*

The WTO has increasingly come to play legislative and regulatory functions which traditionally were in the domain of the nation-state. Because of its effective enforcement mechanism, it is also regarded as very powerful in terms of its ability to compel sovereign states to change laws and regulations if found in violation of free trade rules. The demands for enhanced democratisation therefore form an important set of legitimacy challenges that the WTO has to deal with especially since such issues reached a crescendo at the Seattle Ministerial meeting in the year 1999 leading to the breakdown of trade talks.

Apart from being non-democratic and opaque, WTO's pattern of decision-making has come under serious criticism which undermines the process legitimacy of the organisation. In principle, all member countries have equal rights in the decision-making structure of the WTO as the decisions are normally taken by consensus. When consensus is not possible, the decision can be taken by majority of the vote cast on the basis of one country, one vote principle<sup>28</sup> which has not been exercised so far.

Operationally though the consensus method is found to perpetuate the hegemony of the powerful nations. Since the bargaining power of developing

countries is feeble, given the unfavourable terms of the trade, the policy-making of the WTO is known for its green room process and informal working groups, wherein a small group of the rich and the powerful nations (US, EU, Japan and Canada, otherwise known as Quad) decide the policies through closed door meetings and informal negotiations and the weak countries are often coerced into agreeing with their 'consensus.'

The green room called at the initiative of the Director-General may also include (apart from the Quad) some developing countries, including India, Brazil, Jamaica, etc. Overall, however, the average number of countries in such meetings is about 20 though it may sometime go up to 40.<sup>29</sup> While, countries included in the green room negotiations by and large remain the same, additional participants may sometime include Norway, Indonesia, Poland, Czech Republic, South Africa and Philippines.<sup>30</sup> Thus, only a few developing countries are included while majority are left out of an important process of informal WTO negotiations.

In the formal negotiations also, many developing countries do not have either the expertise or the resources to participate at various stages of the decision-making and on complex and technical issues. The ever-expanding agenda further creates problems of meaningful participation given the already constrained resources. Many developing countries do not have resources to maintain regular representatives at Geneva and thus, do not get involved with the policy-making process since its inception. For example, in the year 2000, 15 African<sup>31</sup> and 9 other member countries did not have any representative at Geneva. Very often thus many developing countries know of the decisions as late as the Ministerial Conference where they have no option but to follow the 'consensus' which is often imposed and democratic principle severely undermined.

In other words, the WTO to a large extent operates on what Keohane and Nye calls the club model<sup>32</sup> wherein trade ministers from a small number of relatively rich countries, get together to make rules in secrecy that are largely invisible to public or for that matter to a majority of its members.

The club model of WTO decision-making has come under intense attack from both developing countries and by NGOs for perpetuating democratic deficit. Hence, the legitimacy crisis of the WTO is both internal and external which means that it emanates from the lack of meaningful participation of member states as well global civil society actors not to mention the people at large.

#### *Normative Dimension*

The exclusive mandate and pursuance of trade liberalisation policies, many a times at the cost of or at odds with the other goals of environment, labour, poverty alleviation, public health, etc. adds another dimension to the legitimacy crisis.<sup>33</sup> In fact, the greatest onslaught to its legitimacy has come from these normative challenges articulated through a number of international NGOs who claim that the WTO is indifferent to the impact of free trade on workers' rights, child labour, the environment and health and that its policies are detrimental to such cherished goals. The differences of opinions between developed countries (who favour an explicit linkage on trade and environment and labour standards) and developing countries further complicates the matter. These non-trade issues have not been addressed by the WTO except intermittently but in the long run would turn out to be one of the most significant challenges for the WTO.

The legitimacy of WTO is also undermined because of the inequitable impact of its policies. For many civil society actors, the WTO promotes the interests of corporate and business houses, causing marginalisation of large sections of the people. Critics also argue that the WTO is run by and for the rich and hence, it does not give significant weight to the problems of developing countries. As a result, developed countries continue to be both engines of free trade regime and its prime beneficiaries. They account for 86 per cent of the total world GDP, 82 percent of export market and 68 per cent of FDI<sup>34</sup> reinforcing the trend wherein 75 percent of world trade takes place among OECD countries. Viewed through the legitimacy lens, such inequitable fallout of its policies has generated a crisis of confidence in the WTO. As an

institution of global governance, it must not only fulfil its mandate but also do so in a way that benefits large if not all sections of its membership.

In fact, no significant discussions took place on developmental issues till the Doha ministerial meeting in 2001 where Doha Development Agenda (DDA)<sup>35</sup> was adopted. DDA was expected to bridge the divide between the rich and the poor nations by providing better market access and creating a level-playing field - a trade route out of poverty trap. However, repeated stalemate on DDA has undermined WTO's capacities to carry the rich and the poor together, hence undermining its legitimacy.

Often therefore the demand for equity get reinforced when viewed alongside the demands raised by groups who are fundamentally opposed to the process of globalisation and are in favour of overhauling/replacing the current global economic architecture including the WTO. Such anti-globalisation groups form bulk of the protestors on the streets at various WTO ministerial conferences and also at the WEF, IMF and World Bank meetings.

Simultaneously, there is a significant move away from multilateralism. This trend has become more pronounced since the success of developing countries at Cancun which has alienated the 'club members'. Countries such as the US and EU and even China are also increasingly relying on bilateral and regional route to pursue their trade interest.<sup>36</sup> Such drift away from multilateralism undermines one of the principal anchors of the WTO.

### *Functional Dimension*

In recent years, WTO's functional efficiency in terms of its ability to fulfil its mandate of trade liberalisation has also come under strain causing a crisis of confidence. The deadlock on agricultural subsidies and non-agricultural market access (NAMA) continue to be the most acrimonious and undermine institution's ability to manage such situations. Before the Seattle Ministerial meeting, the WTO was seen as a vibrant and active organisation taking some important decision on trade liberalisation in order to fulfil its mandate.

However, ever since Seattle, the functional inertia has become quite pronounced. The DDA promised to bring a new vibrancy to the institution but its implementation has hit a roadblock undermining the organisation not to mention the recent setbacks to the developmental aspects of trade regime. Here, the role of US needs special mention as it proposes to undermine a critical tool for development on Special Products (SPs)<sup>37</sup> by reducing the number of tariff lines to five (out of 2000 on average per WTO member) in addition to proposing tougher criteria for SP treatment.

Here it may be recalled that the WTO came for a special purpose of trade liberalisation. Since trade liberalisation does not happen in isolation and has wider socio-economic repercussions, there comes a time when it needs to address the larger issues of equity and justice. If it fails to do so, it suffers from a legitimacy crisis from the have-nots - either the nation states (developing countries) or the public at large.

At the point that it tries to incorporate broader issues - the demands of the have-nots, the consensus breaks down or comes under severe strain due to the intransigence shown by the 'club' members. Nowhere is it more pronounced as in the case of the DDA through which the WTO tried to expand its agenda to include development which has been facing serious resistance from developed countries.

#### *Clash of Expectations and Demands: Legitimacy of the WTO*

At times, different constituencies may perceive WTO's legitimacy differently, thus causing a clash of expectations and goals which may impact upon its legitimacy. For instance, in so far as legitimacy flows from a broad agreement with the values of the society, WTO led free trade regime has the support of its member states or the contracting parties. It has expanded to include majority of 151 member countries<sup>38</sup> including China which agree with the philosophy of trade liberalisation that it professes. Besides, other aspiring member countries are making suitable domestic policy reforms in order to reap the fruits of trade liberalisation. And yet amongst many stakeholders - various civil society actors, especially the anti-globalist NGOs

- the WTO represents an evil force which needs to be restructured or in extreme case disbanded. Many of such groups advocate an alternative route which undermines and challenges the goal of trade liberalisation. Similarly, while environmental groups demand mainstreaming of environment into the trade regime, developing countries oppose it vehemently.

Sometimes, different constituencies place different demands on the WTO which working at cross purposes undermines legitimacy of the organisation. For instance, the issue of submission of *amicus curiae*<sup>39</sup> briefs by the NGOs and opening of DSB proceedings for public viewing/hearing in the interest of transparency and accountability is regarded as an important component of democratic legitimacy by the NGOs. However, procedurally, the legality of accepting such unsolicited briefs by the DSB is contested by developing countries. The Appellate Body in particular has been playing a proactive role in setting the rules and procedures for acceptance of *amicus curiae* briefs from the NGOs but has faced sharp criticism of being unaccountable from the developing countries which are a major constituency of the organisation thus undermining its legitimacy.<sup>40</sup>

This has been amply demonstrated during the acrimonious debate on the legality of submission of *amicus briefs* during the EC-Asbestos dispute<sup>41</sup> where the Appellate Body not only allowed submissions of *amicus curiae* briefs but also laid down specific procedures/guidelines to accept *amicus curiae* briefs from non-parties.<sup>42</sup>

Contrary to the NGO constituency, developing countries strongly disputed the jurisdiction of appellate body to lay down procedures for accepting the *amicus curiae* briefs. On 20 November 2000, a special meeting of the Governing Council was convened at the request of Egypt, acting on behalf of the Informal Group of Developing Countries where many member countries expressed reservations about Appellate Body overstepping its authority and called for reversing its decisions by invoking the legislative authority of the General Council.<sup>43</sup>

What has also been observed in the minutes of this meeting was member countries' emphasis on the inextricable linkage between the issue at hand and the legitimacy of the DSB. At the outset, the implication of the move for the legitimacy of the WTO was outlined by the Chairman of the Dispute Settlement Body stated in the DSB meeting on 17 November that "no delegation wants to do any harm to the standing of this Organisation, or to the Dispute Settlement System or to the Appellate Body. And all are interlinked - anything which affects an integral part of the system affects the system as a whole."<sup>44</sup>

Hence, member countries even though critical of Appellate Body's decision, resolved not to censure working of the appellate body citing the legitimacy and authority of the appellate body but the views of the Informal Group were conveyed to the Appellate Body.

Subsequently, the Appellate Body retreated from its stand and rejected all the *amicus curiae* briefs filed in this case on 'procedural' grounds. The case thus marked a low point in the legitimacy of the Appellate Body/DSM among developing countries but enhanced its legitimacy in the eyes of the NGO constituency. Later, when it rejected all the *amicus curiae* briefs, it resulted in the alienation of the NGO constituency as well. The case thus highlights the problem of striking a balance between various actors and legitimacy of various kinds within the institution itself.

Another aligned yet crucial demand is opening of panel's proceedings to public/stakeholders. Here again, developing countries including India questions the demand for a more inclusive involvement of NGOs in the WTO negotiations, noting that delegations act as per the wishes of the government reflecting the will of the people. On the other hand, Greenpeace, along with other international NGOs, believes that the lack of transparency and adequate consultation with all stakeholders must be urgently addressed by the WTO.

In September 2005, the WTO for the first time allowed public viewing of the legal process of the WTO via closed-circuit broadcast<sup>45</sup> in a dispute between

the EU on the one hand and the US and Canada on the other. The decision was taken at the request of the parties to the case.<sup>46</sup> As it stands today, the public viewing or opening the panel proceedings to public viewing is contingent on the consent of the parties concerned and not a procedure routinely followed leading to repeated onslaught on procedural opaqueness thus undermining its legitimacy in the eyes of the NGOs constituencies which is in complete contrast to the demands of the developing countries which are not very comfortable with opening of the WTO to NGOs. The political skirmish surrounding this issue among various stakeholders undermines WTO's legitimacy to a significant extent. The next section discusses specific policy initiatives taken by the WTO to enhance its legitimacy.

### III

#### **WTO's Search for Legitimacy**

The WTO is not immune to such legitimacy challenges/critiques and has sought to alleviate the problem through certain initiatives primarily aimed at alleviating its democratic deficit by increasing participation of stakeholders.<sup>47</sup> This predominantly translates into a very narrow set of initiatives aimed at enhancing the role of NGOs in the WTO.

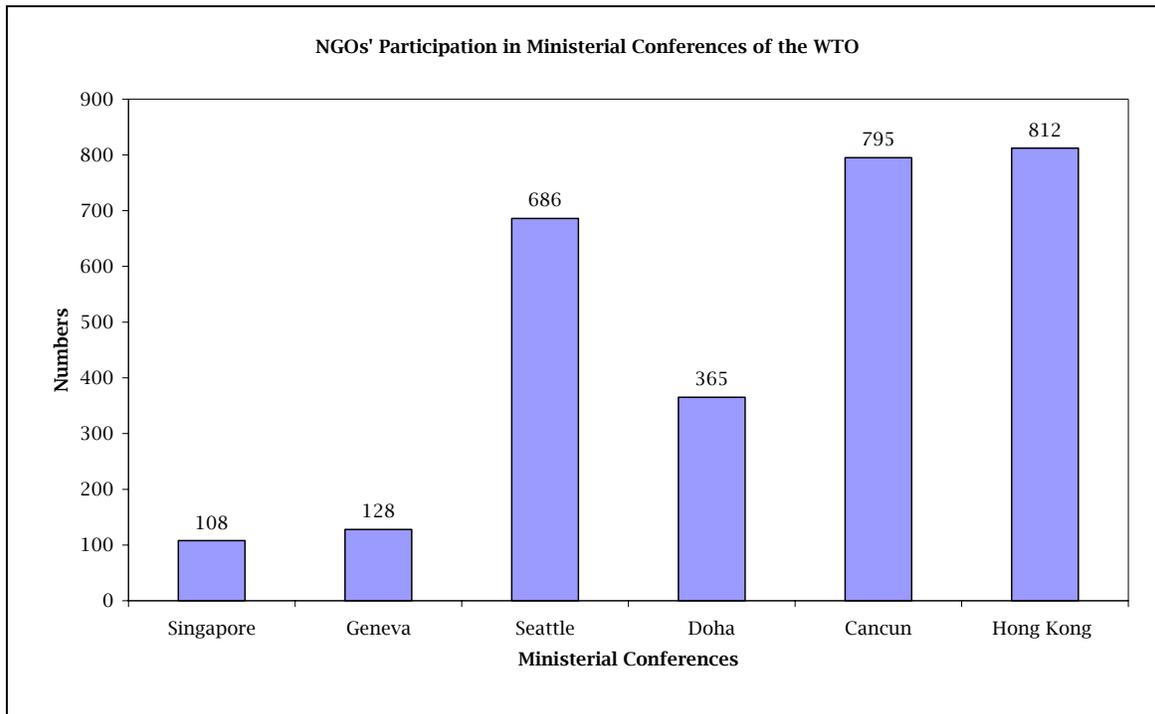
##### *'Democratic' Participation*

The WTO-NGOs interaction is governed by the Guidelines devised by the General Council in 1996 which ascertain that the WTO Secretariat should play a more active role in its direct contacts with NGOs and serve as a conduit for exchange of ideas between WTO members and the NGOs. The rationale to improve communication with NGOs given by these Guidelines is to increase awareness of public about WTO's activities which is clearly aimed at garnering a wider acceptance of the organisation and enhancing its legitimacy.

The interaction between NGOs and the WTO occurs through the following channels: (i) participation in the Ministerial conferences; (ii) participation in

issue-specific/general symposia; (iii) contact through regular briefings by the WTO Secretariat; (iv) submission of papers on specific issues; (v) submission of *amicus curiae* briefs in the dispute settlement body and through (vi) a recently established Informal NGO Advisory Body consisting of ten NGOs. In addition, the Agreement on Preshipment Inspection provides a formal role to the NGOs.

The role of NGOs has seen some expansion in the WTO over the years not so much from inside but from outside which means that while NGOs have not been given a formal role in the decision-making structures of the WTO, they are increasingly being heard by the WTO Members at various forums. There has been a progressive evolution in the number of NGOs' participating at the successive Ministerial conferences (see chart). The Doha is the only exception but it was blinkered by the September-11 events and war on Afghanistan amidst a general climate of distrust as a result of which number of participating NGOs was lower.



However, the pattern of NGOs participation has perpetuated the democratic deficit and raises serious questions about the procedures and principles of

inclusion and exclusion. Evidently, there is significant lack of representation of developing countries' NGOs in the WTO ministerial conferences and also at the other points of contact between the WTO and NGOs. Hence, participation is conditional on accessibility, where developing countries' NGOs are clear losers due to lack of resources. Overall, NGOs from the countries like USA, UK, France, Belgium and Canada have dominated the participating NGOs. At Seattle, this reached at a disproportionate participation of nearly 314 US NGOs out of 686 (46 percent) compared to 12 from India and one from Bangladesh and four from Brazil. NGOs from UK and Japan were 22 NGOs each, while 43 NGOs from France were present at Seattle. Mexico and Namibia had 2 and 1, respectively. At Doha Ministerial Conference, the disproportionate representation is also apparent as out of the total 370 NGOs, 64 (17 percent) came from the USA, 23 from UK, 35 from France, 46 from Belgium, 21 from Canada and 20 from India (an improvement since the Seattle), while Bangladesh had 1, Brazil 3, Pakistan 3 and Sri Lanka 3.<sup>48</sup>

The Cancun Ministerial Conference too saw the dominance of the US and developed countries' based NGOs wherein out of the total 795 NGOs, 236 (nearly 30 percent) were from the US, 45 from the UK, 55 from France and 84 from Canada. Nearly 34 NGOs came from India which is a significant number and 33 were from Mexico which is explainable as Cancun, Mexico was the host city while 18 came from Brazil. Only 2 NGOs came from Bangladesh, while 9 were there from Pakistan and 1 each from Senegal, Tanzania and Nigeria. At Hong Kong Ministerial meeting of the WTO, nearly 22 percent (200 out of 812) of the NGOs were from the US while NGOs from India were only 25 (3 percent) and that from Bangladesh only 6 (0.7 percent) in number. Overall, NGOs from countries like USA, UK, France, Belgium and Canada have dominated the list of participating NGOs at various WTO Ministerial conferences.<sup>49</sup>

Besides, a lot of NGOs which are participating at the ministerial meetings includes business association and chambers of commerce.<sup>50</sup> The stakeholders' model therefore translates into more than adequate

representation of vested interest while people who are actually affected by the decisions are largely unrepresented.

Some other attempts broadly in line with the stakeholder's framework have also been attempted by the WTO. For instance, in 1993 an Informal Advisory Body was created by then Director-General, Dr Supachai Panitchpakdi to create a more structured mechanism of ongoing dialogue between the WTO and the civil society.<sup>51</sup> Members of the 10-member NGO Advisory Body were selected on the basis of the activity and role of their organisation.<sup>52</sup> The fact that it predominantly consists of the international networked NGOs based in the developed countries (except two - CUTS and Third World Network) did little to augment its legitimacy.

Therefore, even before it started to function, doubts were raised about its representative character and many leading NGOs such as Friends of the Earth International and Oxfam International refused to be part of the Advisory Body demanding a more inclusive and meaningful role. Friends of the Earth International declined to participate in the Advisory Body due to the creation of a parallel Informal Business Advisory Body which in its perception would further consolidate the unparalleled access to trade negotiators that the business community already has and "could worsen rather than improve the WTO's endemic problems with secrecy, internally or with civil society."<sup>53</sup> Some regarded it as a step towards co-option of NGOs in order to gain legitimacy for the WTO in the NGO sector. In face of such criticism, the legitimacy of the initiative got undermined.

Despite the dominant stakeholder framework, WTO is also experimenting with newer forms of enhancing participation and through that legitimacy. One initiative which goes beyond the NGO framework was the setting up of a consultative board of eminent persons.<sup>54</sup> Headed by Ex-Director General Peter Sutherland its task is to "reflect on how to improve the functioning of the organisation as it expands to near universal membership, the role of the secretariat and its resources, and ways to create more effective partnership with other international organisations and greater public outreach."<sup>55</sup>

Further, in WTO's outreach activities, parliamentarians have also been included. The Director-General participates in a number of meetings with the parliamentarians, and representatives from international parliamentary groups while other staff members of the WTO secretariat participate in meetings and events hosted by NGOs, and academic institutions. The WTO keeps in contact with the Inter-Parliamentary Union and other parliamentary organisations and assemblies in an attempt to inform and involve. The inter-parliamentary meetings even though not formally associated with the WTO are held on the occasion of WTO Ministerial Conferences. These meetings provide valuable opportunities for parliamentarians to learn more about current trade issues, to get a sense of negotiations, and to network with fellow parliamentarians on trade matters.<sup>56</sup>

All these efforts are geared towards developing WTO's outreach activities toward civil society and stimulating a dialogue with the people on the future direction of WTO trade agenda and in the process attaining wider legitimacy for itself albeit with limited success.

#### *Increasing Transparency*

One important way of enhancing democratic credentials is by increasing transparency. Towards this end the WTO Website, which initially mainly contained information about the organisation, its activities, trade statistics, etc., has grown to encompass all these issues and much more.

In the year 1996, the document dissemination facility was launched which by 1999 grew to include 60,000 official documents in the three official languages, including minutes of the meetings, reports of the WTO Secretariat, committees and working groups and proposals put forward by the countries during negotiations. Majority of these documents are derestricted immediately and some after six months. In May 2002, the General Council decided to limit this time to 6-12 weeks and also reduced the exceptions. Although non-papers, proposals and negotiating texts still remain inaccessible, the website along with the dissemination of official

documents marks an important step in making WTO a more open and transparent organisation.

In 1998 under the Director General's enhanced plan for cooperation with the NGOs, a special section on the NGO was included on the WTO website including a chat room for interactive discussion.

However, these attempts have done precious little to augment the legitimacy of the organisation. This is because such kind of consultative process is neither "addressed to the people, nor to the collectivity of universal citizens, but rather to those that are likely, for *professional* rather than for ideological or personal reasons, to be interested in the subject or issue covered by the process - in other words, the stakeholders."<sup>57</sup> Here "the participation of individuals in transnational governance is not viewed as a matter of universal, formal right, but as a consequence of the individual's holding of certain context-specific professional interest or concerns . . . but only to the extent that the process in question may affect these interest or concerns."<sup>58</sup>

This raises the question whether the stakeholders/NGOs in question are in a position to speak for the wider community that is affected by the decisions so arrived at various global governance institutions. The democracy so envisioned or operationalised has serious limitations and is certain to undermine the legitimacy of any organisation in the long term if not in the short or medium term.

#### IV

##### **Conclusions**

All global governance institutions in contemporary international order must address the crucial issue of legitimacy in their governance structure which depends on a complex set of democratic, normative and functional criteria.

The legitimacy crisis of the WTO emanates from a complex mix of factors including democratic deficit, functional inertia, iniquitous fall out of its policies and most important of all, ignoring the normative concerns of environment, human rights, labour standards and development, etc. In other words, the norm of trade liberalisation or the principle of consent with the

norm is the most challenging part of WTO's legitimacy, especially in the wider international community. Also challenging is the task of balancing different aspects of legitimacy which WTO has to grapple with on numerous occasions.

The Seattle ministerial conference demonstrated a low point in WTO's democratic legitimacy, both internal and external (amongst developing countries and also the NGOs). While developing countries felt alienated from the decision-making process due to repeated intransigence on market access issues as also attempts to fuse trade and labour issue, the NGOs felt equally let down by WTO's inability to respond to their concerns of transparency and accountability which contributed significantly to the collapse of the Seattle Ministerial conference. As far as NGOs are concerned, the demand of participation and transparency remains largely unresolved.

The Cancun Ministerial Conference saw the victory for developing countries (although in retrospect, it is being debated), yet it resurrected US and EU's leanings toward bilateralism and unilateralism which has the potential of undermining the multilateral trade regime.

Overall thus, the WTO is faced with multiple problems which both individually and collectively undermine the legitimacy of the organisation as a whole. On its part, the WTO has attempted to expand the participation of a range of NGOs, academics and stakeholders and in recent years, of parliamentarians in its search for democratic legitimacy. This has done little to augment its legitimacy because in the absence of clearly laid out principles of inclusion, a large body of NGOs/stakeholders, especially the ones from developing countries are excluded from this process.

The presence of large number of NGOs/protestors, etc. on the streets at the Ministerial Conferences which consists of anti-globalists, reformists, environmentalist, labour unions, further contributes to undermining the legitimacy of the WTO in a significant way. This also indicates that the WTO process of involving NGOs is not an inclusive one. The problem of participation therefore remains unsolved and thus, in order to enhance its legitimacy, the WTO needs to move beyond its NGOs outreach activities.

The democratic deficit of the WTO is in fact rooted in the stakeholder's model that the WTO has adopted. Also, following the dominant discourse, WTO has been able to address a very limited aspect of democratic legitimacy with respect to NGOs alone. Within such a framework, the prospects of an enhanced democratic legitimacy of the WTO look bleak. It is erroneous to assume that interactions and consultative process with certain groups or select group of individuals brings the organisation closer to the people. One cannot talk or visualise democracy in a cul-de-sac or enclave mode. WTO needs to create open spaces and avenues wherein people rather than stakeholders can have a say in its policies and decision making. Besides, its policies must lead to equitable outcomes and also appear to be doing so. Unless WTO is able to devise some mechanism to address these issues, its edifice based on fragile legitimacy will remain unstable.

#### Notes

- \* Associate Professor in International Politics, Centre for International Politics, Organisation and Disarmament, School of International Studies, Jawaharlal Nehru University, New Delhi - 110067, India. Email: jayatis@mail.jnu.ac.in / jayatis@gmail.com
- <sup>1</sup> In this paper, the terms 'international organisation' and 'global governance institution' have been used interchangeably.
- <sup>2</sup> Andrew Hurrell, 'Legitimacy and the Use of Force: Can the Circle be Squared' in *Review of International Studies*, vol 31, 2005, pp 15-16.
- <sup>3</sup> Jean-Marc Coicaud, *Legitimacy and Politics: A Contribution to the Study of Political Right and Political responsibility*, Cambridge: CUP, 2002, p 26.
- <sup>4</sup> Ibid.
- <sup>5</sup> Andrew Hurrell, 2005, 'Legitimacy and the Use of Force', Op.Cit., p 16.
- <sup>6</sup> Ibid., pp 15-16.
- <sup>7</sup> Jean-Marc Coicaud, 2002, *Legitimacy and Politics*, Op. Cit, p 23.
- <sup>8</sup> David Held, *Democracy and the Global Order: From Modern State to Cosmopolitan Governance*, Cambridge: Polity Press, 1995, p 139.
- <sup>9</sup> Fritz W. Scharpf, *Interdependence and Democratic Legitimation*, MPIfG Working Paper 98/2, September 1998, MPIfG Working Paper 98/2, September 1998, <http://www.mpi-fg-koeln.mpg.de/pu/workpap/wp98-2/wp98-2.html>
- <sup>10</sup> It may be argued that the linkages between democracy and legitimacy are not necessarily automatic. Institutions like the courts, even though unelected, derive their legitimacy from a clear delegation of constitutional authority, through transparent and efficient decision-making which are open to debate and appeal. Besides, in recent years many democracies, especially western democracies are facing a crisis of confidence and legitimacy on account of widespread scepticism reflected in a decline in the number of people participating in voting during elections. But for want of better system, representative democracy with steps aimed at deepening democracy is perhaps, the most legitimate option.
- <sup>11</sup> Veijo Heiskanen, 'Introduction' in Jean-Marc Coicaud and Veijo Heiskanen, eds. *The Legitimacy of International Organisation*, Tokyo: UNU, 2001, pp 5-6.
- <sup>12</sup> G C A Junne, 'International Organisations in a Period of Globalisation: New (Problems) of Legitimacy' in Jean-Marc Coicaud and Veijo Heiskanen, eds. *The Legitimacy of International Organisation*, Tokyo: UNU, 2001, p 192.
- <sup>13</sup> Veijo Heiskanen, 2001, 'Introduction', Op.Cit., p 5.
- <sup>14</sup> Ibid, pp 5-7.

- <sup>15</sup> Robert O Keohane and Joseph S Nye, Jr., 'The Club Model of Multilateral Cooperation and Problems of Democratic Legitimacy' in Robert O Keohane, ed., *Power and Governance in a Partially Globalised World*, London: Routledge, 2002, p 234.
- <sup>16</sup> Steve Charnovitz, 'The Emergence of Democratic Participation in *Global Governance in Indiana Journal of Global Legal Studies* vol. 10, no. 1, Winter 2003, p 48.
- <sup>17</sup> Ibid, pp 48-51.
- <sup>18</sup> T. Franck has outlined such ideas in *Fairness in International Law and Institutions*, Oxford: Oxford University Press, 1995 cited in Susan Marks, 'Democracy and International Governance' in Jean-Marc Coicaud and Veijo Heiskanen, eds. *The Legitimacy of International Organisation*, Tokyo: UNU, 2001, p 61.
- <sup>19</sup> David Held, *Democracy and Globalisation*, Working Paper 97-5, Max Planck Institute for the Study of Societies, 1997, <http://www.mpi-fg-koeln.mpg.de/pu/workpap/wp97-5/wp97-5.html>
- <sup>20</sup> The classification of different streams of transnational democracy draws from Tony MacGrew, 'Transnational Democracy: Theories and Prospects' keynote paper presented at the International Worksop on Democracy and Globalisation, Gl. Vrå Castle, Denmark, 4-5 May 2003, <http://www.polity.co.uk/global/pdf/Global%20Democracy.pdf>
- <sup>21</sup> See Tony MacGrew, *ibid.* for details on various proposals aimed at achieving transnational democracy.
- <sup>22</sup> At present, most international organisations have adopted stakeholders' model where people's concerns are 'represented' by the large body of NGOs and other civil society actors.
- <sup>23</sup> Another transgression in the debate is can one think of legitimacy and accountability when there is no global democracy? "Being 'accountable' assumes the presence of 'norms of legitimacy' but this is not the same as being democratic." Richard Higgott, Jean-Pierre Lehmann, Fabrice Lehmann, *Markets and Institutions: How to Manage the Governance Gap at the WTO*, Garnet Policy Brief, No 2, May 2006, p 4.
- <sup>24</sup> Monica Blagescu and Robert Lloyd, *Global Accountability Report: Holding Power to Account*, London: One World Trust, 2006, p 7.
- <sup>25</sup> Titus Alexander, *In the Name of the People: Strengthening Global Accountability*, Discussion paper, London: One World Trust, 2002, pp 2.
- <sup>26</sup> Marjus Krajewski, *From Green Room to Glass Room: Participation of Developing Countries and Internal Transparency in the WTO Decision Making Process*, Germanwatch/ A TradeWatch Paper, July 2000, p 4.
- <sup>27</sup> Richard Higgott, *Coming to Terms with Globalisation: Non State Actors and Agenda for Justice and Governance in the Next Century*, GHC Working Paper 99/3, Hamilton: McMaster University, p 26.
- <sup>28</sup> It was a significant and progressive departure from the weighted voting system prevalent in other economic and financial institutions, such as the World Bank and the IMF.
- <sup>29</sup> Amrita Narlikar, 'The Politics of Participation: Decision-making Processes and Developing countries in the WTO' in *The Round Table*, 364, 2002, p 174.
- <sup>30</sup> Marjus Krajewski (2000), *Op. Cit.*, p 8. See also, Jeffrey Schott and Jayashree Watal, *Decision-making in the WTO*, International Economics Policy Briefs, Institute for International Economics, no. 00-2. website <http://www.iie.com/NEWSLTR/news00-2.htm>
- <sup>31</sup> UNDP, *Human Development Report 2002: Deepening Democracy in a Fragmented World*, New Delhi: Oxford, 2002, p 121.
- <sup>32</sup> For a full discussion of the club model see, Robert O Keohane and Joseph S Nye, Jr., 'The Club Model of Multilateral Cooperation and Problems of Democratic Legitimacy' in Robert O Keohane, ed., *Power and Governance in a Partially Globalised World*, London: Routledge, 2002, pp 219-244.
- <sup>33</sup> Scholars such as Kym Anderson believe that the WTO is neither equipped nor competent to deals with issues such as environment, labour, etc. See Kym Anderson, 'Environmental and Labour Standards: What Role for the WTO?' in Anne O Krueger, ed., *The WTO as an International Organisation*, Delhi: OUP, 1999, pp 231-255
- <sup>34</sup> UNDP, *Human Development Report 1999: Globalisation with a Human Face*, Delhi: OUP, 1999, p 3.
- <sup>35</sup> The DDA adopted at the fourth ministerial conference in 2001 is aimed at reforming the world trade rules, open new markets for goods and services, and promote economic and political progress throughout the developing world. Under the agreement, the US and the EU are expected to cut their farm subsidies and the LDCs are given more leeway to protect livelihoods and in return are expected to cut tariffs in manufactured goods in a phased manner. The subsequent negotiations at Cancun, Geneva, Paris and Hong Kong have failed to work out the modalities of DDA implementation. Agricultural subsidies/protectionism in the European countries and the US has turned out to be the most significant and difficult to negotiate issue.
- <sup>36</sup> The US has negotiated free trade agreements with 13 countries, and is negotiating with ten more - including key strategic allies like UAE, Bahrain, South Africa and Thailand. China is also working on

building an East Asian free trade bloc and has signed bilateral deals with the ASEAN countries and is talks with New Zealand and Australia possibly Korea and Japan. EU too is working on an ambitious economic partnership agreement with the former colonies of 69 African, Caribbean and Pacific nations and cementing ties with the Mediterranean.

<sup>37</sup> The SPs aims to assist poor countries in protecting their food security and rural development priorities through targeted tariffs on specific crops.

<sup>38</sup> As on 27 July 2007, [http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org6\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm)

<sup>39</sup> In legal parlance, the phrase is used for a brief filed with the court by someone who is not a party to the litigation/dispute but who believes that the court's decision may affect his/her interest. The traditional function of amicus curiae is to assert ones own interest which is separate and distinct from that of parties. See Dinah Shelton, 'The Participation of Nongovernmental Organisations in International Judicial Proceedings' in *American Journal of International Law*, vol. 88, no. 4, October 1994, pp 611-642

<sup>40</sup> For details see Jayati Srivastava, *NGOs at the Interface of WTO: The Legitimacy Dimension*, NMML Monograph No. 12, New Delhi: NMML, 2005 (ISBN 81-87614-30-7).

<sup>41</sup> European Communities - Measures Affecting Asbestos and Asbestos - Containing Products, Report of the Panel, WT/DS135/R, 18 September 2000, paras 6.1-6.4. and 8.12-8.14.

<sup>42</sup> For details see Jayati Srivastava 2005, 'NGOs at the Interface of WTO', Op.Cit.

<sup>43</sup> WTO, *Minutes of the Governing Council Meeting* on 22 November 2000, WT/GC/M/60, 23 January 2001.

<sup>44</sup> Ibid.

<sup>45</sup> *Continued Suspension of Obligations in the EC-Hormones*  
[http://www.wto.org/english/news\\_e/news05\\_e/openpanel\\_12sep\\_e.htm](http://www.wto.org/english/news_e/news05_e/openpanel_12sep_e.htm)

<sup>46</sup> In the same case in 2006, the panels agreed to open their proceedings with the parties and scientific experts for observation by WTO Members and the general public via closed-circuit broadcast to a separate viewing room at WTO Headquarters in Geneva. The meeting of the Panels with the third parties remained closed since "not all the third parties have agreed to have it open for observation by the public." *Continued Suspension of Obligations in the EC- Hormones Dispute*, Communication from the Chairman of the Panels, WT/DS320/8, WT/DS321/8, 2 August 2005.

<sup>47</sup> Stakeholder refers to a person or organisation that has a legitimate interest in a project or entity. That includes not only vendors, employees, and customers, but even members of a community where its offices or factory may affect the local economy or environment. In discussing the decision-making process for institutions, the concept has been broadened to include everyone with an interest/stake in what the organisation does.

<sup>48</sup> For details see Jayati Srivastava, 'NGOs at the World Trade Organisation: The 'Democratic Dimension' in *Economic and Political Weekly*, vol. XL, no. 19, 7-13 May 2005, pp 1952-57.

<sup>49</sup> WTO Website: [http://www.wto.org/english/thewto\\_e/minist\\_e/min05\\_e/list\\_ngo\\_hk05\\_e.pdf](http://www.wto.org/english/thewto_e/minist_e/min05_e/list_ngo_hk05_e.pdf)

<sup>50</sup> Jayati Srivastava 2005, 'NGOs at the World Trade Organisation', Op. Cit.

<sup>51</sup> The first meeting of the groups took place on 15 June, 2003. The bodies are set to meet twice every year but both the DG and members are free to consult each other more often. The members of the Bodies are free to suggest issues themselves or seek advice from the DG.

<sup>52</sup> They include the Consumers International, Consumer Unity and Trust Society, the International Federation of Agricultural Producers, World Wide Fund for Nature International (WWF), Third World Network, Christian Aid, the International Confederation of Free Trade Unions, Public Services International, the International Centre for Trade and Sustainable Development, and the International Institute for Sustainable Development.

<sup>53</sup> FOEI Media Release, 'WTO Director's Invitation Declined and 'Business Advisory Body' Blasted', June 12, 2003.

<sup>54</sup> The members of the Consultative Board are drawn from government, academia, business, non-profit sector, trade and economic policy-making field. It includes Mr. Peter Sunderland, Prof. Jagdish Bhagwati, Dr. Kwesi Botchwey, Mr. Niall W A FitzGerald KBE, Prof. Koichi Hamada, Prof. John Jackson, Prof. Celso Lafer and Prof. Thierry de Montbrial, ICTSD, Bridges Weekly Trade News Digest, vol. 7, no 23, 25 June 2003, p 9.

<sup>55</sup> WTO News, 19 June 2003, [http://www.wto.org/english/news\\_e/pres03\\_e/pr345\\_e.htm](http://www.wto.org/english/news_e/pres03_e/pr345_e.htm)

<sup>56</sup> WTO News, 22 November, 2000,  
[http://www.wto.org/english/news\\_e/news00\\_e/gcexternaltrans\\_nov00\\_e.htm](http://www.wto.org/english/news_e/news00_e/gcexternaltrans_nov00_e.htm)

<sup>57</sup> Veijo Heiskanen 2001, 'Introduction' Op. Cit, pp 11-12.

<sup>58</sup> Ibid, p 12.