

Decision-making and Representation through Coalitions in the WTO (?)

Brendan Vickers

Research Associate, Global Economy and Development (GED) Programme

Institute for Global Dialogue

Johannesburg

South Africa

Email: vickersb@gmail.com

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Introduction

Negotiating new market access and rules in the WTO has become increasingly complex and difficult. The negotiating drift and deadlock over the past decade and the failure to conclude the Doha Round partly reflects the growing weight, diversity and expectations of the organisation's 153-country membership. New international dynamics – particularly the rise of the emerging economies Brazil, India and China (BICs) as well as the more assertive role of developing country coalitions in the WTO¹ – portends greater multipolarity, further complicating collective global action. While these factors all impact on the efficiency of the multilateral process, some critics point to a more fundamental flaw in the procedural aspects or design of the negotiations. They argue that the WTO's established rules, principles and practices of decision-making are simply ill-suited to respond to the fast changing needs of the trading system and an increasingly globalised world.

Frustration with the status quo has generated a raft of reform proposals aimed at reshaping the WTO into a more effective and efficient negotiating institution. These range from relaxing the single undertaking in favour of variable geometry (i.e. plurilaterals), to weighted voting as an alternative to the consensus norm. Few of these proposals address the representation problem in the WTO, particularly the inclusion of developing countries at the High Table of the negotiations. The reality is that developing countries today constitute the bulk of the WTO's membership. *Ensuring more inclusive decision-making is therefore imperative, so that trade opportunities can be made available to all Members on a more equitable basis, and trade rules do not subvert their development prospects.* However, under the Doha Round in particular, there has been a shift away from an inclusive multilateral process, towards the formation of small and informal groups that become the main decision-making forums or that shape the main content of the proposed deals (i.e. G4, G5/FIPS,

G6 and G7). These exclusive conclaves hark back to the old 'principal supplier' approach utilised in the GATT.² Not only does this arrangement lead to frustration – even resentment – among the 'outsiders' left waiting in the corridors (literally!),³ but these groups are also found wanting in their efficiency. Almost all past 'G-efforts' have resulted in collapse or failure. *The continuation of this form of negotiation in its present form thus requires urgent review.*

The starting point for this brief is that modern global trade governance requires a careful balance between three competing demands, namely greater efficiency, legitimacy and inclusiveness. Reconciling these normative ends is not easy. Nonetheless, the increasing incidence of coalition-building in the WTO⁴ provides one possibility to streamline and reduce the complexity of the WTO bargaining process by narrowing the number of principals and issues through subordinate negotiations among coalition partners. This short briefing reviews the literature in this regard and poses key conceptual, normative and strategic questions for the potential bargaining agency of coalitions in multilateral trade.

Defining coalitions

Coalitions provide a rational response to the problem of unequal bargaining power in the WTO. Broadly defined, a coalition is a group of countries that explicitly work together to defend a common interest. There are two types of coalition formations: *bloc-type coalitions and issue-based alliances*.⁵ 'Bloc-type' coalitions usually comprise states united by a common identity, ideology, income or geography (i.e. regions). In the WTO, for instance, bloc coalitions such as the Africa Group, ACP, LDCs and G90 typically appeal to norms of fairness, equity and distributive justice in world trade, while projecting broad declaratory statements on trade and development. Historically, bloc coalitions have attempted to adopt collective positions over a range of issues areas and over time. As the main binding for blocs is ideational and they bring together countries with some very diverse interests, they tend to adopt more rigid positions. In other words, were they to show higher levels of flexibility and make concessions in negotiations, they would risk alienating members of the group and prompt defection.⁶

By contrast, 'issue-based' alliances are formed entirely for instrumental reasons. They focus on a particular and immediate problem (e.g. agricultural safeguards or subsidies), and tend to dissipate more easily, either because the threat has been answered or because members of the alliance find threats of a higher priority to address that lead them to shift their allegiances. Contrasted to bloc coalitions, issue-based coalitions need not be restricted to like-minded countries. Instead, the condition of membership is simply a shared interest in the area around which the coalition is formed. Since many trade issues span the traditional North/South divide, developed and developing countries can successfully collaborate through issue-based

alliances (e.g. Café au Lait group in the Uruguay Round and the Cairns Group of agricultural exporters).

Representation through coalitions

Coalition-building can potentially be used to streamline the WTO's negotiating process and address the representational problem in several ways, inter alia:

- *Coalitions as conduits for inclusive negotiations;*
- *Coalitions as the bargaining principals;*
- *Issue-based platforms; and*
- *Formalised structures of regional representation.*

These are briefly explored below.

Coalitions as conduits for inclusive negotiations

An important organisational improvement to the multilateral trading system is to more effectively use coalitions as conduits to ensure inclusive decision-making. The role of developing countries in the Doha Round has been unprecedented, with the building of powerful developing country groupings or alliances such as the G20, G33, Cotton Four (C4), NAMA-11 and ACP, LDC and Africa Group, amongst others.⁷ These coalitions must be represented in the WTO's future decision-making processes, whether 'informal' Green Rooms or small group bargaining.

The WTO should carefully consider how it constitutes small groups to advance the negotiations. China, India, the US and the EU can claim to be part of any small group that is created to broker a deal because of their size. However, to promote inclusiveness and transparency, the interests of the rest of the membership should also be represented in any negotiating group. The model of small groups that includes Members simply on the basis of their economic or political weight – or 'principal supplier' principle – is not suited to the diversity of economic interests and the political expectations of Members to be represented and included at every stage of the negotiating process. These coalitions can play an important role in building joint negotiating positions and convergence among the membership. For future negotiations, Green Room processes or small group bargaining must include the mandated representatives of recognised groups as well as sufficient time and space for intra-coalitional consultations, caucusing and compacts to ensure legitimacy of outcomes.⁸

Coalitions as the bargaining principals

A more complex institutional innovation involves the formalisation of coalitions as the bargaining principals in a two-step negotiation process.⁹ The first step would involve the constitution of the coalitions – comprising developed or developing countries – which would then become the principal agents for the actual multilateral negotiation

in the second step. Importantly, countries would need to credibly demonstrate the unity of the coalition. Formal recognition of these collective entities as principals could potentially significantly empower even small developing countries by elevating them into the role of principal suppliers as members of coalitions. A restriction on 'side-deals' (be it through an outright moratorium on efforts to split coalitions through the use of rewards/punishments or through an extension of such deals to all coalition members on an MFN basis) would strengthen unity allow these coalitions greater flexibility to make concessions.

In sum, the formalisation of coalitions will help reduce the number of principals, while the moratorium (or alternatively extension) of 'side-deals' will improve the flexibility of coalitions to negotiate meaningfully.¹⁰ Together, the two solutions potentially offers gains to all parties involved in the negotiation process. They offer greater empowerment to developing countries via the coalitions that they have already developed, and thereby also improvements in perceptions of fairness of the multilateral trading system. Simultaneously, they are likely to improve the ability of the system to deliver results, and hence its efficiency, resulting in greater buy-in and engagement from the developed world.

In Narlikar's view, eventually the utility of this coalition approach could be extended to the Dispute Settlement Mechanism to improve its accessibility for developing countries as well as their retaliatory capacities.¹¹

Issue-based platforms

A related proposal involves refocusing Green Room deliberations (and broader WTO representation) from bilateral country-focused bargaining to a well-organised system of platforms representing the main bargaining positions on specific aspects of the negotiations.¹² Since most coalitions in the WTO have formed around specific issues, this platform-and-proxy Green Room process may effectively resolve the problem of representation (particularly for smaller countries). Individual countries could belong to different platforms on different issues. Through subordinate negotiations, they would have to develop coherent and consistent negotiating positions; and countries not present at the meetings themselves would give their voting proxies to a country or coalition representing the specific platform. Several new coalitions might emerge for various issue platforms, for example transition economies with similar state subsidies policies, countries importing patented medicines, and poorer countries with limited trade policy capacity.

However, platform representation gained at the expense of country representation may lead to some frustration among smaller OECD and developing country participants that lose their seats. Bargaining agents will have to provide assurances or even compensating arrangements (e.g. championing platform issues of interest to those countries) to ensure that the system operates efficiently and effectively.

Formalised structures of regional representation

Proposals for regional representation range from a constituency system based on RTAs and other regional groupings¹³ to creating a formal consultative board, which could hold small group meetings or act as a steering group for the WTO as a whole. Since 'regions' are essentially social constructions, these coalitions could be constituted on the basis of similar trade patterns, trade-to-GDP ratios, GDP per capita or trade policy structure (e.g. trade openness, regulatory margins, etc).¹⁴

This regional proposition is complex, since regional 'bloc' representation has a mixed record in the GATT/WTO. Since 'blocs' are only united by a common identity, ideology, income or geography, they are better suited to making broad declaratory statements (e.g. trade and development); agenda-setting (e.g. TRIPS and Public Health); or blocking (e.g. Singapore Issues). The technical minutiae of specific negotiations are best addressed by discrete issue-based alliances that cut across countries and continents and allow countries to more strategically pursue their own unique trade interests (e.g. Cairns Group, G20, G33, G10, NAMA-11, C4, etc).

Given these diverse trade interests (even in Africa over WTO agricultural reform¹⁵), it seems implausible to group the entire WTO membership along formalised regional lines. In addition, it is debatable whether the members of such regional groupings will share sufficient 'social identity' and 'exchange trust' for effective joint representation through a bargaining agent like Brazil, China, India or South Africa. Smaller constituent members may fear that during the negotiating endgame, the bargaining agents may act in their individual welfare interests rather than on behalf of the constituency.

Conceptual, strategic and normative questions for coalitions

If coalition-building is to be encouraged in response to the WTO's grand challenge of ensuring fairer and more equitable representation for the bulk of its developing world membership, the constituent principals of coalitions need to consider and debate the following questions:

- *What are the criteria for the recognition of coalitions in the WTO (e.g. size, economic weight, durability, longevity)?*
- *What should be the internal mechanisms governing representation by the designated spokesperson of coalitions and accountability within them?*
- *How to ensure sufficient time/space for subordinate negotiations, including intra-coalitional consultations, caucusing and compacts?*
- *How to build 'social identity' and 'exchange trust' (e.g. voting proxy) to strengthen bargaining power and unity, rather than defection?*
- *Is there a role for improved WTO Secretariat support for coalitions?*

Endnotes

¹ Narlikar, A. and Vickers, B. (eds.) 2009. *Leadership and Change in the Multilateral Trading System*. Dordrecht: Republic of Letters Publishing/Martinus Nijhoff.

² Historically, the architects of the GATT created the trading system in their own interests. Only the principal suppliers had a seat at the High Table of the negotiations, while developing countries were simply excluded or marginalised. A country could only be asked to make tariff cuts on a particular product by the principal supplier of that product to that country. This meant that for any particular product the importing country negotiates its tariff rate with its principal supplier and not with all suppliers of the same product. Developing countries at the time were seldom principal suppliers of any product, except raw materials that entered industrialised countries duty-free. Only at the fourth Geneva Round of the GATT in 1956 was this rule modified to allow developing countries to negotiate collectively in requesting concessions. However, they were still effectively prevented from requesting concessions in any products that they did not produce in large quantities. Thus the principal supplier rule had the effect of locking-out developing countries from the tariff cutting negotiations. See Wilkinson, R. 2006. *The WTO. Crisis and the governance of global trade*. London: Routledge.

³ During the Geneva negotiations in July 2008, not one African representative (not even South Africa as the largest, most diversified and industrialised African economy) was included in the inner locus of bargaining. This meant that the continent's agenda – cotton, bananas, and duty-free quota-free market access for least-developed countries, among others – was simply discarded and not resolved.

⁴ One list, produced by the WTO's Trade Negotiations Committee in December 2006, counts the number of bargaining coalitions at 62 (see *Formal and Informal Groupings or Coalitions in the DDA Negotiations*, C.TNC, 08-12-2006 – unpublished WTO document).

⁵ Narlikar, A. 2003. *International Trade and Developing Countries: Bargaining Coalitions in the GATT and WTO*. London: Routledge.

⁶ Narlikar, A. 2009. A Theory of Bargaining Coalitions in the WTO. In *Leadership and Change in the Multilateral Trading System*, edited by Amrita Narlikar and Brendan Vickers. Dordrecht: Republic of Letters Publishing/Brill.

⁷ See Ismail, F. 2007. *Mainstreaming Development in the WTO. Developing Countries in the Doha Round*. Jaipur: FES/CUTS International.

⁸ Ismail, F. and Vickers, B. 2010. 'Reforming the WTO's Negotiating Process: Balancing Efficiency, Inclusiveness and Legitimacy' (mimeo).

⁹ This discussion draws largely from Narlikar, A. 2009. 'A Theory of Bargaining Coalitions in the WTO', in Narlikar, A. and Vickers, B. (eds.) *Leadership and Change in the Multilateral Trading System*. Dordrecht: Republic of Letters Publishing/Martinus Nijhoff.

¹⁰ According to Narlikar (Ibid), coalitions find it difficult to make concessions because any concessions can (a) trigger the defection process (with defection by larger countries likely to trigger many more defections); (b) concessions can be misinterpreted as a sign of weakness of the coalition by the outside party.

¹¹ Narlikar, op cit.

¹² This discussion draws largely from Jones, K. 2010. *The Doha Blues. Institutional Crisis and Reform in the WTO*. Oxford: Oxford University Press (chapter 4).

¹³ See for example: Sutherland, P. et al. 2004. *The Future of the WTO: Addressing Institutional Challenges in the New Millennium*. Geneva: World Trade Organisation.

¹⁴ Some proposed regional configurations include the EU, China Group, ASEAN-Plus, EFTA-Plus, Australia-New Zealand, Transition Economies, North Africa/Middle East, South Asia, Mercosur, Andean Community, various Africa(s) and Caricom.

¹⁵ In Africa there are at least three discernible demands for farm trade reform in the WTO. A first group of competitive agricultural producers (e.g. South Africa and the cotton producers of West Africa) demand reductions in developed country farm subsidies, particularly where this promotes price increases for their output. A second group of preference-dependent economies are defensive, since in the short-term they stand to lose substantially through the erosion of their privileged access into key Northern markets. A third group of African countries consists of net food importers, which depend on EU-subsidised food imports for their food security.